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THE ADMINISTRATION OF IOWA

A STUDY IN CENTRALIZATION

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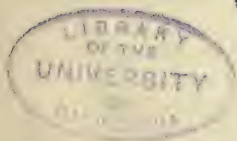
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THE
ADMINISTRATION OF IOWA
A STUDY IN CENTRALIZATION

BY

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SPECIAL ABBREVIATIONS.

- L. = Laws; L. S. B. E. = Laws of the State Board of Education.
D. C. C. = Debates of the Constitutional Convention of 1857.
C. J. = Council Journal; H. J. = House Journal; S. J. = Senate Journal.
S. F. = Senate Files; H. F. = House Files.
S. R. = Reports of the State Superintendent of Public Instruction.



CHAPTER I

THE ADMINISTRATION OF IOWA: ITS BASIS AND PROBLEMS

THE problem of administration in Iowa is the universal problem of the American State of to-day, that of the proper apportionment of powers between the State and the local government. Responsibility, efficiency and freedom in administration, this is the triple end sought in the efforts toward improvement of government, an end upon the attainment of which many of the unrealized ideals of democratic society depend.

There is little in the institutions of Iowa to distinguish it markedly from other States. In the years preceding 1850 it had the characteristics common to pioneer government, many that two hundred years before had stamped the seaboard colonies. Penalties for refusal to serve in local offices, meetings of the townsfolk to regulate their local affairs, *viva voce* voting not only upon minor matters, but upon the acceptance or rejection of their early Constitutions; through this familiar stage the community, with the laws and traditions that it had inherited, was almost bound to pass. Now and then it devised governmental machinery of its own, such as that embodied in the firm covenant of the Land Claims Associations, but usually its political and social inheritance was found adequate to its needs.

The broad outline of the government of to-day is substantially that of the second year of its independent territorial existence. The territorial government as first organized was modeled upon the Northwest Ordinance of 1787,

by which the Governor had a wide appointing and the absolute veto powers. But the great friction between the Governor and the Legislature, which led to a petition on the part of the Legislature to the United States Congress for a change, early resulted in the limitation of the executive power. However, from the beginning to the present time the Governor has almost always been a prominent and often, through his moral influence, almost a controlling force in the State. Legislatures have often consulted his wishes, and been influenced by them as much as by his veto power or his administrative authority. Such direct administrative power as he has possessed has been confined to the central State interests. Local officers and local interests have, except in the most rare instances, depended in no manner directly upon his will, as they have at times in Eastern States. As a member of the Executive Council and of various State boards and commissions, he has exerted a strong advisory influence, while at the same time he has participated in their administrative functions. He has authority to appoint commissions to examine the books and accounts of State officers. If any defalcation, misappropriation of funds or improper and unsafe keeping of books is found the Governor has power to suspend the delinquent, and it would seem that in many cases the suspension might be equivalent to a removal. This power, though possessed since 1858,¹ has seldom or never been exercised. At the same time he has had a rather limited power of appointment which he has exercised alone, with a branch of the General Assembly or some State board or officer.

By his side is a central executive body of extensive powers, the Executive Council. Created in 1851 under the name of the Census Board, primarily for the control of the

¹ *L.*, 1858, c. 160; *Code*, 1873, § 759; *Code*, 1897, § 1259.

State census, and composed of the heads of the several more important departments, and indeed including the Governor himself, from time to time it has been given powers which have made it a factor in almost every branch of the State's administration. Direct administrative power or wide supervisory authority have in many cases been bestowed upon it. And it has been the recipient of many miscellaneous duties which the Legislature, as though at a loss for a more convenient factotum, has often referred to it. Among its more important powers are those of assessment of certain corporations and general equalization. Certain other duties are the change of towns to cities of the second class, and of cities of the second class to those of the first, the approval of bank depository bonds, the making of appropriations from the providential funds, powers with reference to building and loan associations, the canvassing of State election returns, and certain appointive powers.

The sphere and the organs of city government have been little altered from their early character because of the growing population or changing services. There have been complaints at times of local shortcomings, but they were seldom long sustained, and the instances in which there has been any very significant change from the early system, in which rule of the city was by a council, with the Mayor little more than the presiding officer, have been very infrequent. Such changes as have been made have tended toward the increase of the Mayor's power. In 1902 a Civil Service Commission was provided for the city of Des Moines, the members of which were to take office under the Mayor's appointment. And in various other directions his powers have been extended. Formerly city marshals were elected by the people.¹ They are now appointed by the

¹ *Revised Statutes*, 1860, §§ 1103, 1106.

Mayor, as are policemen and police matrons, and the Council may provide other offices shall be filled in this way. Appointive officers in cities and towns hold office subject to dismissal for cause by the appointing power.

That greater change has not taken place in municipal government, and that it has been, if not brilliant, seldom corrupt and often satisfactory, is to be attributed largely to laws of the fortunate character possessed by certain provisions of the Constitution of 1857. While in many instances early city charters had imposed a limit upon the borrowing powers of the city, in some this power was entirely unlimited, the only condition being the consent of a certain per cent. of the electors. However, in 1857, when the new Constitution was adopted, the indebtedness of municipal corporations was limited to five per cent. on the value of the taxable property within their limits.¹ The occasion for this limitation was chiefly the large debts that had been contracted by local divisions in the aid of railways.² This movement did not get under way in the other States until twenty years later.³ In this Constitution also Iowa took an early step in prohibiting the incorporation of cities and towns by special laws,⁴ though this has been to a degree evaded by the familiar device of municipal classification and general legislation for the single class, which class has sometimes in effect comprised but a single city.

These few facts perhaps suggest what may be described as the chief characteristic in the development of the Iowa administration—that of an even progress, a gradual growth

¹ *Cons.*, 1857, art. 11, § 2.

² See *Gov. Mess.*, 1856, pp. 13, 14.

³ Henry Wade Rogers, *Municipal Corporations*, in *Two Centuries Growth of American Law*, p. 242.

⁴ *Cons.*, 1857, art. 3, § 30. The statement in Rogers, *op. cit.*, p. 247, that Iowa led the way in this matter is erroneous. The Constitution of 1846 not only did not prohibit such incorporation; it expressly sanctioned it. See Art. 8, § 2.

or accumulation of strength and fitness, rather than a sudden enlargement. This, though a somewhat subjective factor, must be borne in mind if the meaning of the changes in the administration and their results are to be comprehended. There have been a few deviations, some—for instance the county judge administration of 1851 and the State Board of Education of 1857—as novel experiments in government as have been made anywhere in the United States, but as a rule the even course has been undisturbed. Politics, industry and social relations have been characterized by the same poise and natural development. There have been striking exceptions here as well; occasionally a factious struggle has become virulent and disgraceful, but as a generalization the truth of the statement will hold. Iowa has grown symmetrically and in all directions. Nowhere is this better illustrated than in the growth of the population. In this the rural districts and the towns both have participated. It is true that the population of the cities shows a tendency to increase more rapidly than that of the rural districts, but the very fact that there is an increase in the rural population, while in some States of the same general character as Iowa, notably Ohio, Indiana, Illinois, Nebraska and Kansas, there has been an actual decrease, is indicative of conservative tendencies.¹ Moreover, the semi-urban population has increased much more rapidly than the urban,² a fact that well illustrates the pursuit of a middle course. Iowa has no large cities. The railroads have often been blamed for this. It has been pointed out that from 1870 to 1890 the net increase in population in Illinois, Wisconsin, Iowa and Minnesota, except in the new section, was in towns and cities that were given competitive rates, while

¹ *Twelfth Census of the United States*, vol. 1, p. lxxxix.

² *Ibid.*, p. xc. In the decade, 1890-1900, of the total increase in the State the rural population counted 14.6, the urban 38.3, and the semi-urban, 47.1 per cent.

all those having non-competitive rates decreased in population.¹ The lack of large commercial or manufacturing centres is ascribed to this, and as a further consequence there has arisen the necessity of crossing the State line to market a large part of the produce.² But whatever the force of this argument, the State has been, and will continue to be, primarily agricultural, and the manufacturing metropolis is not likely to arise within its borders. The importance of this fact in an administrative connection will hardly be overestimated. At once those difficulties which have arisen in States having large cities, difficulties that have often led to a separate and distinct administrative policy for such cities, are eliminated. The State administration becomes a unit; what is applicable in one part is applicable in another. In New York, Ohio and Illinois the larger cities have strained the balance of government. In Massachusetts their individuality has given rise to differentiation. In Iowa these things have not been known, and a symmetrical administration has been possible.

But the essential problem of administration is as near to, and perhaps as far from, solution in Iowa as elsewhere. That problem, as we have said, is one of responsibility, efficiency and independence in the administration, both State and local. To solve it there is necessary, on the one hand, the careful delimitation of the sphere of the State; on the other, that of the local administration. It will be asked in what way can that sphere within which the city or town or township should be allowed to rule itself be made distinct, so that it may be known when and when not the State encroaches upon its powers? And how shall the State's domain of authority be so clearly defined that the local division

¹ A. B. Stickney, *The Railroad Problem*, p. 62.

² F. H. Dixon, *State Railroad Control*, p. 204.

when acting as the State's agent and servant shall have no excuse for perversion of that agency or any pretence that it is acting on its own behalf? The question should be answered in a practical way, a way that will recommend itself to the natural processes of legislation. And that can in part be done. Allow the State to attract to itself, and itself administer those powers which as near as can be told appertain to it as the State. Permit then the city or local division to exercise untrammelled the authority that, so far as it shall appear, belongs to it as the local government. Relieve it of the tutelage of the interfering Legislature. The results will at first be rough. But when the true line of cleavage has been established the finer adjustments can be made with little difficulty.

It is with the first part of this process that this essay has to deal—the degree to which the administration of the State's powers has been attracted to the State's hands. This is the primary task, and a work upon which the State has already entered and accomplished much. And as the State thus becomes stronger in its own authority, gradually there may be brought home to it a knowledge of the effects and injustice of its interference in affairs purely local. For the foundation of local home rule already exists; the Legislature has been ordered to withdraw where it has made too great inroads.¹ The functions of the State and the functions of the municipality have their distinctive places in the theory of the law, but much is to be done before they shall be brought into efficient and just relations.

In thus defining the scope of this essay it becomes obvious that neither State government nor local government *per se*

¹ *State vs. Barker*, 89 N. W., 204. It is remarkable that this case, decided in February, 1902, was the first in which the position of the city and its relation to the State was defined. Of course, many preceding cases had hinted at the relation. See *State vs. Des Moines*, 103 Ia., 76.

is to be discussed. The subject matter is to be found in the intermediate ground, that ground where both the State and the local government exercise powers of administration, and, primarily, where the local government acts as the agent of the State. It is here that the more complex problems of administration are to be found, and it is this ground that must be cleared before the full definition of State and local authority can be made. Those functions which are indubitably State or local, and which are exercised accordingly, will not be touched, except incidentally, though in them there are many problems of surpassing interest. For example, the questions of State expenditure, or State budgetary practice, or the construction and powers of the Executive Council, or, on the other hand, in municipal government, the question of the relations of the Mayor, the Council and local boards and officers; these subjects all invite analysis and criticism, but they are not directly within the scope of State centralization. The subjects that will be treated of are public education, charities, corrections and penal institutions, the public health and safety, and public finance in so far as it concerns State income and income administration.

CHAPTER II

PUBLIC EDUCATION

I HISTORICAL SKETCH OF THE ADMINISTRATION OF THE SCHOOLS

THE history of the school administration of Iowa has been one of development in both the local and the central divisions. The chief powers of school government are, and have ever been, in the hands of the local school officers, in the Boards of Trustees and directors. It is not, however, to be denied that the central authority has exercised a wide influence, and that that influence has been exercised through channels of efficient control. For though the local bodies have been shorn of little of their powers, though indeed new powers have been given them from time to time, there yet have been significant accessions of authority to the State administration. When new functions have suggested themselves to legislators the tendency has often been to confer the attendant power upon the State rather than the local instrument.

In examining historically the development of the school administration in Iowa we have no such key to the State control as is found in those States that have made school support a branch of the State finance. The support of the schools in general has been left to the townships, towns, cities and counties. The school fund is not a gratuity of the State, though the State acts in the distribution of that fund. It is rather a gift of the National Government, for it comes from the public lands, and is expressly conditioned

upon devotion to the use of public instruction, a use to which the State has pledged its honor repeatedly in Constitutions and statutes. Moreover, the revenue from the school fund defrays but a small part of the school expenses.¹ In one field, that of higher education, the State has raised and spent its bounty, and here it has exercised substantial authority. Because of the absence of State aid, then, we should not be surprised if the centralization were very weak indeed. That such is not the case, that there is a fair degree of central control, must therefore be imputed to other forces.

The relation of the central authority to the schools begins soon after the creation of the territorial government. Laws were on the statute books of Michigan and Wisconsin when Iowa was organized as a part of those territories providing for public instruction, but the Michigan government was absentee, that of Wisconsin hardly immediate, though for a season Burlington was its territorial capital; and this, together with the fact that there was practically no school population at this early date, makes consideration of these laws needless. In fact, until about 1854 there was relatively little material and little need for schools.²

¹ Year.	Expenditures.	Annual Interest of Permanent Fund.	Year.	Expenditures.	Annual Interest of Permanent Fund.
1849	44,738	6,138	1880	4,921,249	282,903
1854	121,965	50,155	1885	6,054,313	248,260
1860	655,938	142,151	1890	6,710,317	266,338
1865	1,265,667	138,840	1895	8,317,875	235,663
1870	3,043,420	238,356	1900	9,028,918	118,700
1875	4,605,749	318,997	1901	9,321,652	108,942

¹ Cf. Jesse Macy, *Institutional Beginnings in a Western State*, in *Johns Hopkins Univ. Studies in Hist. and Pol. Science*, vol. ii, pp. 365, 366. It would be erroneous to assume that all the schools were private and none public in the early history of the State. The report of the territorial superintendent in 1841 is sufficient evidence to the contrary. See C. F., 1841-42, pp. 280 *et seq.*

The central authority was disposed to assert its interest in the schools from the first. Nothing could witness this more clearly than the message of the first territorial Governor. On November 12, 1838, he sent his first message to the Legislative Assembly, and his initial recommendation concerned the welfare of the schools. He urged that a law be passed immediately for the organization of townships and the election of township officers, for "without proper township regulation," he said, "it will be extremely difficult, if in fact not impracticable, to establish a regular school system." And later on in his message the Governor was not entirely ingenuous when he announced, "There is no subject to which I wish to call your attention more emphatically than the subject of establishing . . . a well digested system of common schools." When preparing the message he had told his private secretary that the prime object of that recommendation was to attract settlers, and had acknowledged that the territory was not ready for and not in need of a school system.¹ However, the recommendation was taken at its face value, and with at least equal good faith the first Legislative Assembly proceeded to enact an elaborate law for a system of school officers and school organization.

The law of the first session made no provision for State or county control; it instituted a condition of remarkable local decentralization.² The directors themselves were given the powers of examining the teachers, and were authorized to lease the lands belonging to the district. There was little or no limit on their authority, though they were required to report to the county commissioners. But the act was tentative, and so too great significance is not to be

¹ *Proceedings of Seventh Reunion of the Pioneer Lawmakers' Association of Iowa*, p. 24.

² L., 1838-9, Act June 1, 1839.

attached to it. It met a primitive condition. In a day of rude beginnings it introduced rude measures. For instance, under it taxes might be levied for school purposes "in cash, or good merchantable produce at cash prices." Thus it was not intended to be enduring, and the decentralization that formed its basis was not a principle, but an expedient.

The next year saw a complete change. A territorial superintendent was created and township school inspectors provided for, to whom were transferred several of the more important functions previously enjoyed by the school directors.¹ Under the law of 1839 the school directors might make application to the county commissioners for the organization of their districts; now the school inspectors were vested with full power to set off the districts, settle their boundaries and change them as they pleased, later even to form districts covering adjoining townships, with the consent of the school inspectors of such townships.² They were given the power to examine teachers, a power that was thus, with exceptions of little moment,³ lost to the school directors. The duty of visiting the schools was imposed upon them. They exercised a very important financial function, applying to the county treasurer for the portion of the school money due their township and securing from the township collector the funds collected by him for school purposes, which they then apportioned to the several districts. The powers vested in the school inspectors were in part original to their office, in a slight measure conferred at the expense of the county commissioners, in a large measure at the expense of the school districts and school directors. The creation of the office was of signal importance, for it meant that the school system was not to be confirmed in local autonomy, but that a way was to be

¹ *L.*, 1839-40, c. 73.

² *L.*, 1846-47, c. 99.

³ *L.*, 1856-57, c. 158.

opened for what might develop into a degree either of semi-local or State administration. It proved to be the avenue to the former, the county administration, a fact not surprising when it is recognized that the county has played perhaps the leading role in the political development of this agricultural and therefore largely rural people.

The township school inspector system was unique in many ways. If the school inspector was a precursor of the county school fund commissioner, and so of the county superintendent of schools, he was none the less a forerunner of the authority that grew up in the later township district. And for a short period his powers were susceptible of becoming quite autocratic, for from 1841 to 1847 he was under no compulsion save that exercised in the almost casual influence of the territorial Legislature.

The Territorial Superintendent of Public Education created at this time, an office that was to endure but a year, however, was not given strong powers. It was rather a supplementary office, hence its creation did not signify the adoption of a policy of centralization. The superintendency under the State government has been at no time so weak legally as was this. The powers were few.¹ The Superintendent was to visit the schools, issue instructions for the organization of school districts, provide the form for the teachers' certificates, though their examination was left entirely to the school inspectors, apportion the interest of the school fund—a fund that was practically non-existent at this time—and report to the Legislature. But in the hands of the man first appointed to this office, the appointment being by the Governor with the consent of the Council, even these weak powers were made much of, and the schools set on the road of progress.²

¹ *L.*, 1840, c. 46.

² See *S. R.*, 1895, p. 213.

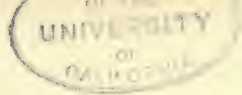
The work necessary at this time was organization of the school districts, instruction in and interpretation of the school laws. In many places school districts had failed of organization, in many townships school inspectors had not even been elected, and all because the law was not known to exist, or, if known, not understood. A crusade of information and organization was inaugurated by the superintendent, and much was achieved by him in his brief career.¹ A little further assistance and authority was asked, in order to carry the work forward, but the House Committee on Public Instruction in January, 1842, in the face of this evident need, brought in a report for abolishment, saying, "This officer, in the opinion of your committee, is unnecessary. They therefore recommend that this office be abolished."² From the face of the report it would appear that the superintendent's salary of \$250 per annum was deemed an extravagance. The office was abolished the month following.³

There have been few steps in the history of the State Legislature more reprehensible than was this. It was distinctly a step in retreat. The result was not decentralization so much as demoralization. Under the law abolishing the office it was provided that the reports of the clerks of the Boards of County Commissioners, embodying an abstract of the returns made to them by the school inspectors, should be transmitted to the Legislative Assembly of the territory. Hitherto these reports had been sent to the Superintendent. The effect was simply to render the provision for reports entirely nugatory and to remove practically all central oversight and supervision, for it does not appear that these reports were ever made to the Legislature or that, if made,

¹ *S. R., C. J.*, 1841-42, p. 281.

² *H. J.*, 1841-42, p. 132.

³ *L.*, 1841-42, p. 108.



they were ever examined by it. If the Legislative Assembly exercised any control it was desultory and unmeaning. Not until the State was admitted into the Union was a general superintendency again created.

The greatest harm in this policy, a harm that was scarcely remedied in a score of years, was the check it gave to school organization. At the moment when every care should have been given to direct the struggling feet all guidance was removed, so that in message after message the stock complaint of the Governors became just this, that because of supineness of school officers, or the permissive character of the laws, or failure to understand them, the districts were not organizing, and the school system was becoming a cause for mortification.¹ The later territorial Governors, however, did not mention the matter in their messages. Apparently they had given up in disgust. But the conscience of the Legislature began to quicken,² and before the State was formed there was readiness for reform, so that the provision for the State superintendency was easily introduced into the State Constitution.

To the school system the admission of the State in 1846, the Constitution and the early State laws meant reconstruction, and now until 1857, when the second Constitution was adopted, the school system underwent a peculiar development, a period of growth, but of growth stunted somewhat by the division of interests and responsibilities of those designated to administer it. In this period the administration of the school fund shared the time of State and county school officers with the administration of school matters proper. The pivotal point of the school system in fact was the administration of this fund. Either the

¹ *Gov. Mes., H. J.*, 1841-42, p. 14; *C. J.*, 1842-43, pp. 10, 11; *C. J.*, 1843-44, pp. 2, 10.

² *H. J.*, 1845, p. 164.

legislators of the day seemed to have lost sight of the real interests of the schools in their zeal to take speedy care of the beneficence of the National Government, or they thought that here was the vital point of the school machinery, and that once it was put in working order the entire body would move of itself.¹ So they neglected its other parts.

The school fund as constituted at this time was derived from the public lands, comprising the sixteenth section of every congressional township, an additional 500,000 acres, together with five per cent. on all the revenue derived from the public lands within the State. The State University had a fund of its own, derived from two sections of the public lands. As an addition to the general fund the Constitution of 1846 provided that moneys paid as exemptions from military duty and the clear proceeds of all fines collected in the several counties for any breach of the penal laws should be "exclusively applied in the several counties in which such money is paid or fine collected."² Legislation and gifts from the National Government at various times augmented this fund slightly.³ The balance of the school revenue was derived from taxation, and until the free school law of 1858 was passed the amount required of

¹ It is quite evident that much more was expected of the school fund than ever came of it. The House Committee on Public Instruction in 1842 in a report, said that they were "gratified to say that they can see, in advance, means within the power of the Legislature, if properly husbanded to create a permanent fund of an amount which, in a few years, may be sufficient for all objects of a Primary School. "This fund the Committee propose to create by the collection and funding in the hands of the Territorial Treasurer, all moneys arising from fines, forfeitures, and any violations of the penal laws of the Territory, from drifted water craft, lost goods, estrays, escheats, and the portions of money to which the Territory is entitled under the act of Congress distributing the proceeds of the sales of the public lands." *H. J.*, 1841-42, p. 132.

² *Cons.*, 1846, art. 9, § 4.

³ *L.*, 1848-49, c. 99, added all funds arising from sale of water craft, lost goods and estrays, to be paid to the county in which they had accrued.

each taxpayer was to a large extent determined by the number of his children in the schools.¹ Until that time the interest from the permanent fund did indeed equal about one-third of the school expenditure. The importance given to the administration of the fund thus had some justification.

The Constitution of 1846 provided for a State Superintendent to be elected for a term of two years.² The first session of the State Legislature, now denominated the General Assembly, provided in detail for this office and for a new body of county school officers called county school fund commissioners.³ The financial functions of the State officer were quite as pronounced as those of the county commissioners, so that harmony in description might have been subserved had the Superintendent been styled what in fact he really was, the State school fund commissioner. The county school fund commissioner was provided primarily for the local handling and management of the school funds and lands. And until the discontinuance of the office of school inspector in 1849,⁴ when the functions of such office were in a large measure conferred upon him,⁵ he was little

¹ For example, see *L.*, 1839-40, c. 73; *L.*, 1845-46, c. 11.

² The provision as originally introduced by the Committee on Education and School Lands in the Constitutional Convention of 1846, provided for a Superintendent to be elected by the Legislature for a term of three years. *Journal of the Constitutional Convention*, 1846, p. 46.

³ *L.*, 1846-47, c. 99,

⁴ *L.*, 1848-49, c. 99. Until 1847 there had been three school inspectors in each township; by c. 99 of the laws of that year the number was reduced to one.

⁵ He was not, however, given the power to examine teachers, or visit the schools. The former power was again confided to the school directors. The latter was exercised by the State Superintendent and school directors. The school fund commissioner's powers were not so arbitrary with respect to the determination of the boundaries of school districts as had been those of the school inspectors, and in some sense they were entirely taken from him. *L.*, 1856-57, c. 158. With the legislation of 1858 the control of the district boundaries was lodged with the school units. *L.*, 1858, c. 52; *L. S. B. E.*, Dec. 24, 1858.

more than a financial administrator. Yet these added powers affected only slightly his real work and the estimation in which he was held. To the end he was held in popular and in legislative regard as primarily a financial agent, and as such was under the cloud of constant public criticism.

Theoretically the relation of school fund commissioner and State Superintendent during this period was as follows: The active management of the school lands and funds was to be undertaken by the county school fund commissioners; they were to oversee the sale of the lands, the investment of the funds and the apportionment of interest among the districts within their several counties; the State Superintendent was to exercise a directory power merely.¹ But practically there were many contradictions in the system.² As a single illustration, the State Superintendent was designated as the proper authority for the receipt of the five per cent. fund, and though he was enjoined to apportion it to the counties immediately, and not allow it to remain in his hands, he did not always do this. The endeavor on the part of one superintendent himself to loan this fund was perhaps as instrumental as anything in putting an end to the system.³ The result was confusion. There was division of responsibility, at one time at least four different classes of officers, viz., the State Superintendent, the school fund commissioners, the State Treasurer and school inspectors, having to do with the temporary or permanent care of some part of the school

¹ *L.*, 1846-47, c. 96; c. 111.

² In some cases the proceeds of the county school taxes had been loaned. To correct the results of this misunderstanding the State Superintendent was empowered in all such cases to order that they be refunded. *L.*, 1848-49, c. 59. There was a similar misunderstanding concerning the five per cent. fund.

³ Cf. L. F. Parker, *Higher Education in Iowa*, p. 28, and see *L.*, 1856-57, c. 162; c. 187; *Joint Resolution*, No. 2.

moneys.¹ This meant uncertainty, and a hazy responsibility as between custodians. Then in the accounts of the officers themselves there was confusion, so pronounced in the case of the State Superintendent and school fund commissioners that legislative interference became imperative.

The system of school fund commissioners was assailed from the outset, and continually by the State Superintendents. It was costly to the schools, the expenses and pay of the commissioners being defrayed from the school revenue, and by that much reducing the school support. The Governors united with the superintendents in urging a change,² and when it was shown on investigation that many of the commissioners were dishonest, many absolutely incompetent, that in numerous instances their accounts were inextricably involved or wholly incomplete, that in some cases the commissioners had accepted purely "ideal" tracts of land as part of the school domain, or loaned school assets on second and third encumbrances, the State was ready for a change. The superintendents had protested as well against the continuance of their own financial functions as giving them little time for proper attention to other school duties. A mere rehearsal of the superintendent's duties in one year of the period will almost of itself convict the system. In 1850 the superintendent's duties were as follows: He must supervise the establishment of schools, lecture in the several counties and districts, confer with school officers, receive and file all papers, reports and public documents transmitted to him, prepare and transmit blanks for reports, attend to the organization of the University and Normal Schools, make rules and regulations for the benefit of school officers, con-

¹ And in 1851 the governor was given power to make such regulations as he might think proper for the protection against waste of the school lands in the unorganized counties. *L.*, 1850-51, *Joint Res.*, No. 32.

² *Gov. Mess.*, 1858, p. 7; *S. R.*, 1850, pp. 169, 170.

duct the official and miscellaneous correspondence, record and report all the proceedings of his office, and "perform generally such duties as may tend to advance the interests of education." These were school functions properly so called. They were performed without the aid of a deputy and with little clerical assistance. Add to them a duty in the selection and sale of the school lands, apportionment of the interest of the school fund, collection and distribution of the five per cent. fund, the adjustment of land titles, certain duties in the investment of the school funds, and periodical examination of the accounts of the school fund commissioners, and it needs no argument to show that not all the duties would be performed, and that many of them would be performed very inefficiently. In the nature of the case a change must have been pending, and it is little wonder that the change when it was made was not merely in the statutes of the State, but that it became a part of its constitutional law.

The most fruitful years in the history of the Iowa schools and the Iowa school administration are the years 1857 and 1858. Then was laid the foundation of the present system. In 1856 a Commission for the Revision of the School Laws, composed of Amos Dean, a prominent scholar and educator, and then dean of the Albany Law School, and the famous Horace Mann,¹ made a report rich in suggestions for betterment. Its most pregnant recommendations were those for a county superintendent of schools, for free schools, and a township district system, measures that were all, with the exception of the last, realized within two years. The township district in its pure form, as recommended by the Commission, was not adopted, but a compromise system, whereby

¹ Mr. F. E. Bissell, afterwards Attorney-General, had been named as a member of this Commission, but did not act. For contemporary opinion of the report of the Commission see *Dubuque Express and Herald*, Jan. 15, 1857.

the original school districts became sub-districts of the larger township unit, and a single director from each elected in each of such sub-districts constituted the township board, secured the consent of the Legislature.

In the Constitution of 1857 it was provided that "the financial agents of the school fund shall be the same that, by law, receive and control the State and county revenue, for other civil purposes, under such regulations as may be provided by law."¹ And thus the educational was permanently separated from the financial administration of the schools. But one other provision in this Constitution delayed for a period of six years the full entrance upon the present order. The State was to undergo a further experiment. The Constitution created a new organ of government called the State Board of Education, a separate and distinct Legislature for school matters! It was the introduction of a fourth element of government, a body to which either the term Council or Legislature might be applied, for it might enact laws, it might through its secretary exercise a broad ordinance power, and these laws and ordinances once promulgated, it could, at the hands of its executive officer, secure their enforcement. It is to be doubted if the colonial or State history of America since the "Fundamental Constitutions" of John Locke and the Carolinas affords a more unique organ of civil government than was this. It must be placed among the curiosities of modern institutions where abide the Swiss *Landesgemeinde* or those wrought by the curious relations of Croatia to the dominant Magyars in the Hungarian constitutional system. It will be impossible here to give it the attention that it deserves, for the reason that it has little significance in the schools. Yet so

¹ *Cons.*, 1857, Art. 9, Sub-div. 2, § 6. The creation of a state land office at this time added facilities for the care of the school lands.

eloquent is it of the inventiveness of the political mind of an American commonwealth that it should not go unnoticed.

The State Board of Education¹ was composed of the Lieutenant Governor, who was the presiding officer, with a casting vote in case of a tie, one member to be elected from each of the judicial districts in the State, of which at this time there were eleven,² and the Governor *ex officio*. The qualifications for election were made the same as those for State Senators, citizenship of the State for one year, and the attainment of the twenty-fifth year. The sessions of the board were to be held annually, not to continue longer than twenty days, except upon extraordinary occasions, when upon the recommendation of two-thirds of the board the Governor might order a special session. The board was to appoint a secretary, who should be its executive officer, and "perform such duties as may be imposed upon him by the board and the laws of the State." With respect to powers, the Constitution provided, "The board of education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools, and other educational institutions, that are instituted, to receive aid from the school or university fund of this State; but all acts, rules and regulations of said board may be altered, amended or repealed by the General Assembly, and when so altered, amended or repealed they shall not be re-enacted by the board of education." But it was stipulated that "the board shall have no power to levy taxes or make appropriations of money." A majority constituted a quorum for the transaction of business, but no rule or law could pass without the concurrence of a majority of all the

¹ For the full law on the composition and powers of the Board see *Cons.*, 1857, art. 5, §§ 1-15.

² *Cons.*, 1857, art. 5, § 10.

members. However, a law once so passed could not be disturbed by veto.¹

The board was not made a permanent body. It was recognized by members of the constitutional convention and others that imagination or pure reason, and not precedents, were the fabrics from which this new creation was made,² and that the experiment might fail; therefore a way was left open for retreat. It was provided that after 1863 the General Assembly should have power to abolish or reorganize it, and provide for the educational interests of the State in any way they should think best and proper.

The purpose of the board's creation, as expressed by its author in the constitutional convention, was shared by the majority of the delegates. He said that it was his desire to take education entirely out of the power of the General Assembly and put it in the safe keeping of another body "who will better represent the interests of the people. I am for putting it into the hands of a body that shall have no control over the funds, and which cannot possibly be influenced by partisan considerations . . . their whole and

¹ In the original report made to the Constitutional Convention of 1857, in which the board was projected, there was no provision for a veto power. But on Feb. 27, 1857, motion was made by its author for an additional section providing that sessions of the board should not be held during the sessions of the General Assembly, that the Governor should attend sessions of the board, but have no vote, but that he might exercise a veto power upon "all acts, rules and regulations passed by the board in the same manner as provided for acts of the general assembly." The author of the motion explained on request that it should take a two thirds vote to overrule. This motion was put and agreed to. Motion to reconsider was made on February 27, the mover contending that it should require but a majority to defeat the veto of the Governor. But in later action all of this was changed and, as a compromise to an opposition that developed, the Governor was made an *ex-officio* member of the board without the veto power, but with no limitation upon his right to vote. See *D. C. C.*, vol. ii, pp. 838 *et seq.*

² One member of the convention referred to it as a "new-fangled scheme." *D. C. C.*, vol. ii, p. 943.

individual attention will be given to the benefit and improvement of the educational system of the State.”¹ The ambition was laudable, but the handiwork was of the crudest. The issues among the delegates in the convention were framed not upon the feasibility of its existence, but upon the definition of its powers and its relations to the other organs of the government,² a controversy premonitory of the friction with these organs that was to prove the burden of its history and finally bring about its fall.

The conflict of jurisdiction between the General Assembly and the State Board of Education was under way even before the board met. In January, 1858, the first session of the General Assembly under the new Constitution took place, but the board was not convened until the December next following. Members of the General Assembly believed the State to be without a law in reference to the schools, save the provisions of the Constitution. This threatened the State with the suspension of the schools for a year, and the Legislature, as in duty bound, passed a well-considered school law, under which all the schools went into operation.³ The legality of this law was disputed, and on the threshold of the board's first meeting the Supreme Court pronounced it unconstitutional,⁴ and declared that the General Assembly had trespassed upon the peculiar province of the board. It did not state in terms wherein the unconstitutionality lay, but the decision was almost an admission that it was impossible to define clearly the boundary where

¹*D. C. C.*, p. 751. The public opinion of the board upon its establishment and during its first year or two was high. A newspaper of the day spoke of it as a body whose deliberations “are second only to those of the legislature in their consequences in the State.” *Dubuque Express and Herald*, Dec. 5, 1858.

²*D. C. C.*, pp. 39, 40 *et seq.*

³*L.*, 1858, c. 52.

⁴*District Township v. City of Dubuque*, 7 Clarke (Ia.), 262.

the powers of the board ended and those of the Legislature began. It meant that both board and Legislature must tread lightly the soil of this shadowy division line.

The board approached its task with hesitation.¹ It took up the unconstitutional act of the General Assembly and passed it with slight alterations.² It advised itself of the further needs of the schools, and little by little undertook to supply them. But if the General Assembly was to be robbed of its initiative it could well be conceived that with a power to alter, amend or repeal it would not handle over-gently the creations of a rival legislature. And it did not. The power to revise was freely exercised.

The school legislation proceeded until it became apparent that there was little left for the board to propose or the Legislature to recast. With this another clause of the Constitution came into play, and it was asked, had the people and the constitutional convention tied the very hands of those upon whom they had sought to confer authority? For the Constitution stated concerning the school laws that when "altered, amended or repealed they shall not be re-enacted by the board of education." It was a curious provision, and one that was held to mean that the board might not twice act upon the same subject, and that the power to alter, amend or repeal should not be held in abeyance or be twice exercised.³ A school law once a law was thus a statute *in perpetuo*, and took on something of the formidable inflexibility of a written constitution. These conflicts and self-destructive principles and rules, with their basis of un-matured political science, meant the undoing of the system, and, together with the jealousy of the General Assembly towards a competitor in its own field, succeeded in accom-

¹ *Gov. Mess.*, 1860, p. 7.

² *L. S. B. E.*, Dec. 24, 1858.

³ *Report of the State Board of Education*, 1863, pp. 27, 28.

plishing it immediately the constitutional limitation had expired.¹

Examined with respect to its power as an administrative machine it is apparent that centralization was here carried to an extreme limit, and had the board been cast on clean lines and endowed with powers less irritating to the other departments of government it could have governed the schools almost secure from molestation. For a legislative, an executive and a judicial power were focussed here, a legislative power limited of course by the right of the General Assembly to amend or repeal, and the inhibition of the taxing power and power of appropriation, an executive power that must no doubt serve the Legislature as well as the board, for the power of the Legislature to overrule the board meant no less, and a judicial power that assuredly would have received harsh treatment had it trenched much upon the authority of the courts, but still a legislative, an executive and a judicial power of much importance.

Exercising its legislative power the board, quick to appreciate the school needs, passed laws that had hardly occurred to the slower moving Legislature. Notable among them was the law for school appeals,² though of this it had received a hint from the discussion in the constitutional convention, in which the creation of a Chancellor, with power to settle school differences subject to appeal to the Supreme Court, had been mooted.³ Furthermore it had a model for such a law in the provisions of the unconstitutional act of 1858. Another step in advance was made when it provided for a State Board of Educational Examiners, who might examine and issue certificates to teachers for the public schools.⁴

¹L., 1864, c. 52. The message of the governor to this session had favored its abolition. *Gov. Mess.*, pp. 4, 5.

²L. S. B. E., Dec. 24, 1859.

³D. C. C., vol. i, p. 78.

⁴L. S. B. E., Dec. 20, 1861.

The board itself was not an executive body. Its secretary was the only executive officer, but through him the board might execute its will, for by the Constitution he was to "perform such duties as may be imposed upon him by the board," and though it was in session but twenty days during the year, it was, at least secondarily, something of an administrative council. At the beginning of the board's career the Superintendent of Public Instruction still existed, but the office was immediately abolished by the board, largely for political reasons, and the functions were bestowed upon its secretary. Moreover, the secretary was given a wide ordinance power, the board on the passage of its first school law providing, "The Secretary of the Board of Education may make all needful rules and regulations to give efficacy to this law. And should any defect be discovered therein while this board is not in session, which is evidently the result of oversight, and which in his opinion is detrimental to the efficiency of the law, he may supply such defect by a regulation having the force of law until the matter can be acted on by this board. . . . He may also make regulations fixing the powers and duties of any subordinate officer or board when these duties are not sufficiently defined herein."¹ The authority thus conveyed was not tested, for the secretary, fearing he might transcend the power conferred, confined himself to its exercise in only a few unimportant cases.²

Finally the board conferred judicial authority upon its executive agent, certainly a remarkable measure when it is

¹ *L. S. B. E.*, Dec. 24, 1858. Though the constitutionality of these provisions was never brought in question, never receiving an important application, it would seem that the board here approached treacherous ground. This amounted to little less than a delegation of legislative power, a power that in the hands of the board itself could be made effective only upon concurrence of a majority of the members.

² *Report of the State Board of Education*, 1859, p. 15.

recalled that the secretary was the servant and mouthpiece of the board. Appeals from acts and decisions of local Boards of Directors might be entertained by the county superintendent, and from his decisions and acts appeals might be taken to the secretary, whose decision was final. Disputes involving money claims or contracts alone were excepted; these were left to the courts.

It is to be regretted that the nature of the board was not such that it could have been given a longer test, for while it was weighted with deficiencies, its personnel was vigorous,¹ its spirit was sound, and there was much in its plan that if given a favorable opportunity might have proved invaluable in the development of the schools. As it was the schools did not suffer, but thrived under its régime, though this was doubtless due chiefly to the free school law which was now just under way.

With the year 1863, when the State Board of Education was abolished and the Superintendent introduced, the State was done with experiments. Down to the Code of 1873 reactionary tendencies were at work. The Legislature had regained its control of the schools, and seemingly was inclined to let them take care of themselves for a season. The greater local integration of the school system intended by the adoption of the township district was checked, and local decentralization under piecemeal laws grew apace. During this period was begun that series of acts which, by providing for independent districts, though this had, within limits, been sanctioned by the law providing for the township district, by conferring upon sub-districts the right to constitute themselves independent districts,² by permitting independent

¹ See *Proceedings of the Pioneer Lawmakers' Association of Iowa*, 1898, p. 77.

² See *L.*, 1872, c. 156, *Gov. Mess.*, 1874, p. 13, and *L.*, 1888, c. 61, for illustration. There were occasional attempts to check this movement, but they were of little avail. *Code*, 1873, § 1713.

districts to divide themselves into two or more new independent districts,¹ or on the other hand to combine, or by other and multifarious permissions too detailed to mention made the local school administration a patchwork, without system and without form, a condition that has endured to the present day in the face of the protests covering half a century.² The powers conferred upon the State Superintendent were not fully commensurate with those which the Secretary of the Board of Education had exercised;³ the Board of Educational Examiners though patently weak was not altered, the county superintendents were stripped of their power of visitation, though this was restored again within a few years,⁴ and a general spirit of legislative indifference prevailed.

But with the year 1870 a lively interest began in school affairs, and from then on there has been a steady progression in the expansion of the State and county administration. The powers of the school directors have remained practically stationary, only a mite of added authority occasionally falling to them in the laws of general application.⁵

The enhancement of the county administration has meant almost entirely the extension of the county superintendent's powers.⁶ On the other hand the increase of the strength

¹ *L.*, 1878, c. 133.

² The Secretary of the Board of Education in 1858 was in favor of carrying the change to the extreme of a county district.

³ *L.*, 1864, c. 52.

⁴ *L. S. B. E.*, Dec. 24, 1859, omitted provision for visitation; *L.*, 1864, c. 102, restored it.

⁵ *L.*, 1886, c. 1, concerning instruction in physiology and effects of stimulants and narcotics; *L.*, 1900, c. 109, teaching of vocal music; *L.*, 1902, c. 128, compulsory education. In the light of the history of other States grave doubts may be entertained as to the success of local administration of the latter law.

⁶ The chief additions to the county superintendent's powers and duties since 1863 are found in acts making him president of county high school board, *L.*,

of the State administration has taken several forms. The Superintendent's powers have been increased.² At the same time various special boards have been created with wide functions, and certain extra-legal bodies have developed whose administrative influence is none the less real because unstatutory. The particular directions in which the several branches of the school administration were strengthened will appear in the discussion of the present system.

In concluding this historical sketch we may summarize and more succinctly indicate the dominant tendencies which have served to stamp the several stages in the school administration. From 1838 to 1841 we note quite perfect decentralization, almost entirely theoretical however, for the

1870, c. 116; requiring him to make reports concerning blind, *L.*, 1870, c. 31; deaf and dumb, *L.*, 1874, c. 213; and feeble-minded, *L.*, 1882, c. 40; erect school districts from territory in adjoining counties, *L.*, 1870, c. 94; appoint appraisers in condemnation of school-house sites, *L.*, 1870, c. 124 (recalling the power possessed by him under the State Board of Education laws to examine sites and plans of school houses about to be built, and give instructions, see *L. S. B. E.*, Dec. 24, 1858); act as arbitrator between local boards, as to where children shall attend school, *L.*, 1878, c. 41; making him chairman of county Board of Education, *L.*, 1890, c. 24; giving him power to subpoena witnesses and compel their attendance in appeal cases, *Code*, 1897, § 2821.

¹ The more important additions to the State Superintendent's powers and duties have been found in acts providing for a deputy superintendent, *L.*, 1868, c. 115; requiring State Superintendent to meet county superintendents in convention, and to visit teachers' institutes, *L.*, 1868, c. 162 (rather a recurrence to former power that had since been abolished); making him chief of State Board of Educational Examiners, *L.*, 1882, c. 167 (though the State Superintendent's powers were not as great as he had recommended they should be, see *S. R.*, 1877, p. 7); making him president of the Board of Trustees of State Normal School, *L.*, 1882, c. 64; giving power to approve courses of study of graded or union schools, *Code*, 1897, § 2776; giving authority to prepare and publish courses of study for rural and high schools, *L.*, 1900, c. 94; giving authority to appoint substitutes where county superintendent fails to make report, *L.*, 1900, c. 94; making him member of the Board of Library Trustees, *L.*, 1872, c. 184. There was a diminution in authority in 1864, when the power to direct what books should be used in the schools was taken away, *L.*, 1864, c. 52.

schools had not developed at this time. The year 1841-1842 was signalized by the creation and abolition of the territorial superintendency, an office weak in legal authority, hence not indicative of the legislative approval of central power, but strong in the pioneer enthusiasm of its incumbent. From 1842 to 1847 the territory reaped the fruits of its Legislature's folly. The Superintendent gone, there being no county authority to aid or control, the schools were near collapse, and disorganization was the order of the day. This was a period of decentralization, of a peculiar type, however, for it traveled under the guise of a legislative administration. Just above the district was the township inspectorship, an office that contained the seeds of strength but did not flourish because of the perverse conditions with which it was surrounded. The admission of the State in 1846 meant a new era, and in 1847 great strides were made toward the centralization of the school system. The State Superintendent was provided with powers concerning the schools and school finances, which, read on paper only, exceeded anything that has existed since the abolition of the Board of Education.¹ But in reality the centralization was not all that it seems, and was in fact essentially less than what now exists in the State. This contradiction of appearances and truth is explained by two facts. First we note the attempt to make the State Superintendent strong beyond his power of efficient endurance. To give him the power of comptroller of the school funds, the duties of a register of a State land office and the

¹ In 1853 the State Superintendent was made President of the Board of Overseers of the Blind Asylum, which was then established. *L.*, 1852-53, c. 26. Two years later, however, it was provided that the members of the board should elect their own president, though the State Superintendent remained for a time an *ex-officio* member of the board. *L.*, 1854-55, c. 56. As early as 1849 the State Superintendent had been required to exercise ministerial functions with regard to the deaf, dumb and blind. *L.*, 1849, c. 121.

multitudinous functions of director of the school system in all its ramifications, without at the same time providing a sufficient body of assistants, was to insure at the outset that almost none of his work would be done satisfactorily, that much of it would be done poorly, that some of it would not be done at all. The other fact is found in the conditions of the day. The school population was not of any extent until about 1854; the ability of the people to support a school system was very limited. Most eloquent of the times was the provision for the normal schools of 1848—a vision of the law that was not even in part realized for thirty years.

It is difficult to characterize the period from 1858 to 1863, that of the rule of the Board of Education. It is a period of centralization, but centralization so unlike anything found in our State governments generally, or in the history of Iowa before or since that time, that it must be examined by itself and as an anomaly.

The period since 1863 is divided roughly at the year 1870, the years from 1863 to 1870 being marked by a slight reactionary tendency, those from 1870 on by a slow and even gathering of new forces in the county, and more especially in the State administration. The increase of control in the county takes but one form, that of added power to the county superintendent, while the State administrative power develops simultaneously in the State Superintendent and the State Educational Boards.

II THE ADMINISTRATION OF THE SCHOOL UNIT

To make clear the present administration of the schools it is necessary to describe briefly the character of the local administrative division, and the powers of the electors and the school directors in that division.

Since the year 1858, when the township district was adopted, it has been impossible to speak accurately of the

school unit as a school district in Iowa, for so various, even whimsical, have been the changes since that time that to-day not one, but three forms of the local school division are found, while the change from one form to another, under the statutes, may be made with such facility that almost all idea of uniformity and continuity is destroyed. These three forms are named by the recent law "school townships," "independent school districts" and "rural independent school districts."¹ The chief distinction between the school townships and the independent districts is that the latter constitute entire units, in which the directors are elected at large, while the former are each made up of two or more sub-districts, with the directors elected one from each sub-district, except in those cases where, there being but two sub-districts to the school township, an additional director is provided for, elected by all the school electors of the school township. In the school townships the directors are elected for a term of but one year, in the independent districts for a term of three years. The differences between the rural and other independent districts are chiefly those due to differences in urban and country life. As an illustration, the urban district boards are larger than the rural, and petitions to rural boards may be signed by a smaller number than those to the urban. The principle of this system, if principle it may be said to have, is adaptability to local preferences. To say that the principle should be described as adaptability to local needs would be to defend it, a thing that would require vast hardihood in the face of the years of unbroken condemnation from those versed in school affairs and school government. This adaptability to local preference has been an evolution; it was only gradually worked out in all its elasticity by the legislation of forty

¹ *Code*, 1897, § 2744.

years, and as though each aberrant contribution were a gem in the system all have been carefully set in the latest code.

The first reports of the county superintendents following the Code of 1897 showed that there were 70 independent and 263 sub-districts having an attendance upon the schools of less than 5; 502 independent and 2,075 sub-districts having an attendance of less than 10; 1,273 independent and 5,100 sub-districts having an attendance of less than 15, and 1,950 independent and 7,379 sub-districts having an attendance of less than 20. In the total of independent districts and sub-districts 53 per cent. of the independent districts and 79 per cent. of the sub-districts had an average daily attendance of less than 20; 34 per cent. of the independent and 54 per cent. of the sub-districts had an average daily attendance of less than 15, and 13 per cent. of the independent and 22 per cent. of the sub-districts had an average daily attendance of less than 10.¹ The arguments against the small district system are platitudes, and so familiar that they need not be rehearsed here. But the above figures, though illustrating only a single phase of the deficiencies of the system, must plead forcibly for the enduring vitality of these arguments. There have been, in the last General Assemblies, some indications of dissatisfaction with the system; the movement to bring school advantages to a higher plane through concentration, as in the proposals for transportation of children, and the desire strongly manifest on occasion to provide higher or graded schools for the townships,² have been seriously baulked by the minute school division. It may be that the appreciation of these wider educational responsibilities will accomplish what strenuous protest has failed to, and place the system on a more rational basis.

¹ *S. R.*, 1899, pp. 69, 70.

² *S. R.*, 1899, p. 19; 1901, pp. 15, 16.

The powers of the electors in the school unit are very inclusive, and were they exercised the electoral administration of the schools would be conspicuous. It needs hardly to be said, however, that they are little used. They embrace the following, viz.: power to direct a change of text-books regularly adopted; to direct sale or distribution of any property, including school houses and sites, and determine the application of the proceeds; to introduce new branches of study; to govern the board of directors with respect to the use of the school buildings for public meetings; to direct the transfer of any surplus in the school-house fund to the teachers' or contingent fund; to authorize the board to provide roads for access to the school houses; to vote school taxes; and finally, as a last principal power, to determine upon the provision of free text-books.¹

The directors are in a measure servants of the electors of the school unit, and to a slight degree of the county superintendents and the State Superintendent. At the same time they have a certain independence; they may prescribe courses of study, subject, however, to a degree of control previously indicated as existing in the hands of the State Superintendent or the electors; they have control of the school property, may fix school house sites, determine the number of schools to be taught, divide the corporations into wards or other proper divisions, determine the length of time the school shall be taught beyond the period required by law, establish higher or graded and union schools, expel students, visit the schools, and make contracts with teachers and discharge them on investigation. It is apparent from the recitation of the powers of electors and directors that the schools are administered chiefly in the school unit. But

¹ *Code*, 1897, § 2836. The law for district and county uniformity of text-books was not enacted until 1890, c. 24; that for free text-books not until 1896, c. 37.

it will be shown that the external control is by no means a mean or unavailing thing.

III THE COUNTY SCHOOL ADMINISTRATION

The county school administration is the county superintendent. He is elected by the electors of the county for a term of two years. There is indeed a Board of Education, the object of whose existence is to afford a means for the introduction of county uniformity in text-books, but its power is entirely restricted to that purpose, and even here the county superintendent may become, and doubtless usually is, the guiding spirit, for he is the executive head of the board, with certain sole powers. The Board of Trustees of the County High School is again hardly an exception, and this for two reasons, first because the law for such schools has remained practically a dead letter, there being but one county high school in the entire State, and second because, though the board is made up of trustees elected from the county, the county superintendent is by law always its president.

The county superintendent exercises on the one hand administrative powers both ministerial and discretionary, on the other powers that, with qualifications, may be denominated judicial. Of the administrative powers we shall first speak.

The county superintendent comes into direct contact with the local Boards of Directors in a number of ways. First, he is given a general power to see that the school laws are observed. This extends to all the provisions of the school law so far as it relates to the schools or school officers within his county, and to this end he may require the assistance of the county attorney, who, at his request, must bring any action necessary to enforce the law or recover penalties in-

curred.¹ School directors are required before they may erect a school building to consult with the county superintendent as to the best plan for the building and secure his approval of the plan proposed.² He has power to authorize a reduction of the period of instruction in any school below the limit which the law requires before a school can make any claim for a portion of the school fund, when in his judgment there are sufficient reasons for so doing.³ He may, furthermore, appoint appraisers to determine the value of school house sites.⁴ He visits the schools. Moreover, reports of district treasurers and secretaries in general are made to him, and not to the State Superintendent.⁵ The general nature of these powers is readily deduced. They are principally advisory, though there are some elements of direct administration. And, such is the nature of advisory powers, they carry with them no great coercive strength.

But the county superintendent is not denied some original authority, that is to say authority that has its first residence in him. Most important is the power to examine and issue certificates to teachers. So important is this power and so essential to the existence of the county superintendency itself that it has been urged, when transfer of all examinations to the State Superintendent has been proposed, that to deprive it of this power would be almost complete emasculation. For it was argued that power to examine meant power to control the teaching force and thus indirectly the schools. The even working of the system is dependent—so it was averred—upon the continuance of this power.⁶ These examinations are regularly held on the last Saturday in each month, though special examinations may be held at the discretion of the county superintendent.⁷ The exam-

¹ *Code*, 1897, § 2740.

² *Ibid.*, § 2779.

³ *Code*, 1897, § 2773.

⁴ *Ibid.*, § 2815.

⁵ *Ibid.*, § 2739.

⁶ *S. R.*, 1901, p. 14.

⁷ *Code*, 1897, § 2735.

inations are of three classes, examinations for one-year certificates, for two-year certificates, and for special certificates. The one-year certificates are granted to candidates passing examinations in the subjects that are taught in the grade schools; the two years certificates to those who, in addition, pass in several branches that are confined to the high schools, but are still of an elementary character.¹ Candidates for examination in special studies are examined in these special branches only, but it is provided that no teacher shall be employed to teach any subject not included in the certificate.² These certificates once granted, the county superintendent still has power to revoke them for any cause that would have justified a refusal to grant the same.

In still another point he exercises an influence over the preparation of teachers. He is required to hold annually a normal institute for the instruction of teachers and those who may desire to teach, and, with the concurrence of the State Superintendent, to procure such assistance as may be necessary to conduct it.³ He has a financial power here, for all disbursements from the institute fund must be upon his order.⁴ These institutes are supported by the teachers chiefly, the State making only a slight contribution.⁵

Whatever the arguments for or against centralization, it must be admitted that the county institute is a good and desirable thing. But the county examination of teachers is another matter. Here the administration is involved.

¹ *Code*, 1897, §§ 2736, 2737.

² *Ibid.*, § 2736.

³ *Code*, 1897, § 2738.

⁴ *Idem.*

⁵ In 1898 the enrollment in normal institutes was 20,784, and in 1899, 20,454. The entire cost of maintaining these institutes was \$59,908.86 in 1898, and \$60,717.26 in 1899, or a total of \$120,626.12. The whole amount was raised by the teachers, with the exception of \$50 paid annually by the State to each county for the benefit of the institute fund.

The decentralization of course is not so pronounced as that in the disorganized period of the schools, when at one time the school directors, at another the township inspectors, examined the teachers, systems upon the working of which there is little evidence, and that little unfavorable. But in contrast with State examination it is local control. The comparative value of the system will be examined in the discussion of the State Board of Educational Examiners.

The county superintendent has a further administrative function, acting as the organ of communication between the State Superintendent and the school unit authorities, and he is required to comply with the directions of the State Superintendent in all matters within that officer's jurisdiction.¹ These obligations are in one important respect enforced by the provision that the State Superintendent may appoint a substitute when he fails to make the reports required, and determine the remuneration of the substitute, to be paid by the county superintendent.² Similar duties are found in the provisions that the county superintendent shall file with the county auditor a statement of the number of persons of school age in each school township and independent district in the county.³ This is to provide a basis for the apportionment of the school fund and income from the county school taxes. The duty to report the blind in his county to the superintendent of the college for the blind, the feeble minded to the superintendent of the institution for the feeble minded, and the deaf and dumb to the superintendent of the institution for the deaf and dumb are not related to the school system, and need be no more than mentioned here.⁴

A judicial power has been referred to. This is the power that the county superintendent has to entertain appeals from

¹ *Code*, 1897, § 2735.

² *L.*, 1900, c. 94.

³ *Code*, 1897, § 2739.

⁴ *Idem.*

any decision or order of a Board of Directors in a matter of law and fact, except those for money judgments. The basis of the appeal is an affidavit setting forth the error complained of. The appeal must be perfected within thirty days after the rendition of the decision or making of the order. The county superintendent's decision is not conclusive; it may be appealed to the State Superintendent, where the hearing is final. Until 1897 this authority proved in numerous instances fatally weak. Previous to that time the county superintendent had had no power to compel the attendance of witnesses. But in that year he was empowered to require their attendance and the giving of evidence by them "in the same manner and to the same extent as the district court may do."¹ The effect of this appellate authority has been to make the county superintendent not a judicial officer, but an administrative court of first instance.²

While the population of the 99 counties of Iowa ranges from 7,995 in Dickinson county to 82,624 in Polk, it will be found in general to be quite evenly distributed among them, most all falling close to the average of 22,544. Hence little fault can be found with the system of county superintendents upon the score of unequal division of power and labor. Moreover, for the duties performed the salary paid, which is now \$1,250 yearly, with such additional allowances as the Board of Supervisors may make, can not induce much criticism, though in the past it has been excessively low. A step has been made also through the admission of women to the office. While in 1870 there was but one woman in the position, there were 10 in 1876, 11 in 1884, 14 in 1890, and 15 in 1896.³ In 1902 15 women held the position, of whom three had filled it for two or more terms, and three of

¹ *Code*, 1897, § 2821.

² *School District vs. Pratt*, 17 Ia., 16.

³ *S. R.*, 1897, p. 112.

the remainder had been re-elected or had previously held the office. In the point of educational qualifications the office stands somewhat above the corresponding office in a number of other States.¹ But with all this said, the county superintendency is in several points the subject of grave criticism, and cannot be admitted to have accomplished all expected of it.

It has in fact been insecure of its life from the hour of its creation. From 1860 to 1875 a strong opposition developed,² and since that time those who have favored the office but believed that it was in need of improvement have often been chary of advising reform lest it be cut off root and branch.³ The State Superintendents have generally defended it, though not without recommendations for generous alterations,⁴ recommendations so radical in some cases as to mean the aggrandizement, though a valuable aggrandizement it may be, of the central administration at its expense.⁵ The chief elements of weakness in the office as it now exists are found in its obligations to politics and its short term. There have not been wanting sharp complaints that in many instances the county superintendency has been a mere subject of political bargain and sale or a gate to the tortuous passage of political preferment. This political element unites with the short term to cause one of the greatest wastes in the entire educational system. The election returns for the year 1899 indicate that 46 of the 99 superintendents were entirely new in the supervisory work of the schools, 32 had served one term, 16 two or more terms, and 5 had previously held the office.⁶ It takes at least a year for

¹ See *Code*, 1897, § 2734, and increase by *L.*, 1898, c. 85.

² *S. R.*, 1873, p. 41. See also petitions on file in office of Secretary of State of the State of Iowa. B-40, 2228.

³ *S. R.*, 1892, p. 197.

⁴ *Ibid.*, 1873, p. 41; 1889, p. 53.

⁵ *Ibid.*, 1901, pp. 14, 15.

⁶ *S. R.*, 1899, pp. 26, 27.

the superintendent to become acquainted with his teachers and the conditions surrounding the schools, and the year remaining is but a brief period to apply what he has learned, or make for anything in the way of improvement.

Suggestions looking both to the removal of the office from partisan politics and the saving to the schools of the educational waste have been made. Of these perhaps the most original is that in a recent school report suggesting that the county superintendent be chosen by a county board, something after the manner of the choice of city superintendents by city boards.¹ It would seem that any improvement in the county superintendency will be but a temporary expedient. With the increased powers of the State Superintendent, the Educational Board of Examiners and the extralegal State Teachers' Association, powers that, unless the signs of evolution are deceiving, will be extended, the county superintendent seems destined to become more and more a mere ministerial agent of the central administration, and if he become that, the narrowness of his functions and the unendurableness of his service to two masters, the schools and politics, should make apparent the fact that the office is by right no more than a piece of administrative machinery, and that as such it should be so constructed as to be the best means to the end it serves. When that fact is recognized will it not appear that the best method of reconstruction will be to increase territorially the jurisdiction of the office, make it cover six or eight counties where it now covers but one, increase the salary and provide a corps of experienced assistants, make this go-between station, in short, an efficient and admirable part of a well digested school system, working in complete harmony with the State superintendency to the perfection of the schools, and to no other end? Thus

¹ *S. R.*, 1899, p. 27.

there will be the passing of the county superintendency and its replacement by a body of able assistant State superintendents, something after the fashion of an idea, rough but suggestive, entertained by one of the Governors more than thirty years ago.¹

IV CENTRAL SCHOOL ADMINISTRATION

I THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

The central control of the schools has not yet reached that point where we can speak of a hierarchy of school officers with one undisputed head. But so far as central authority is lodged in any one man it is found in the State Superintendent of Public Instruction. If his power of control is not highly developed, at least his presence in all parts of the school system is well assured. There is no branch of the school system, no central or local board, county or local officer having to do with the school, over which he has not some influence, great or little. He touches the schools at all points. His salary is but \$2,200 per annum, and his term brief. His position, therefore, cannot be expected to be what it otherwise might. We may divide his powers into those of direction or supervision, the appellate power, and the advisory powers, and examine them thus in order from the more to the less competent. It will appear, however, that powers seemingly of the first class might in some instances be more appropriately grouped with the third—so much less real than apparent direct administrative capacity do they yield—and that among the advisory powers are some so efficacious as almost to deserve a place among the so-called directory powers.

The Superintendent is "charged with the general super-

¹ *Gov. Mess.*, 1870, p. 9.

vision of all the county superintendents and common schools of the State," but this authority is purely supervisory. He has no power of removal or suspension of a refractory subordinate, so that one disposed to oppose him can do so practically with impunity. But such opposition is almost never met with, and little complaint is heard upon that score. He is required to prepare, publish and distribute blank forms for all returns he may deem necessary or that may be required by law of school teachers or school officers, and, as has been pointed out, the making of these reports he can, in a measure, coerce.¹

The Superintendent has power to meet county superintendents in convention at such points in the State as he may direct, and the latter are allowed their expenses in attendance upon the convention. He appoints, upon request of county superintendents, the time and place for holding teachers' institutes, and his concurrence in securing instructors to conduct the same is essential. He has authority to make tours of inspection among the schools, but this carries with it no directory power,² and cannot count for much when his other duties are so engrossing. It is provided that he shall have power "to prepare questions for the use of county superintendents in the examination of applicants for teachers' certificates,"³ and it might be assumed that this would give him control of teachers' examinations. But such is not the case, and indeed the object of the provision was merely to determine by whom the printing of the questions should be done. And although not one in twenty-five county superintendents fails to use these questions,⁴ the papers are still marked by them, so that there is no uniform standard for these examinations.

¹ *Ante*, p. 49, *L.*, 1900, c. 49.

² *L.*, 1900, c. 94.

³ *Idem*.

⁴ This statement is made on the authority of the State Superintendent.

It might be assumed with even greater show of reason that the section of the code providing that Boards of Directors "shall have the power to maintain in each district one or more schools of a higher order . . . and may establish graded or union schools and determine what branches shall be taught therein, but the course of study shall be subject to the approval of the Superintendent of Public Instruction,"¹ taken in connection with the act of 1900 empowering him "to prepare, publish and distribute, among teachers and school officers, courses of study for use in the rural and high schools of the State,"² would give him something of an authority to direct the work done in common and high schools. But while these courses of study are very generally used in the common schools, the high schools mostly arranging their own courses, the actual control by the Superintendent is almost entirely lacking. And it cannot be expected that a course of study even under a much stricter statute will be carried out, unless there is some means of direct oversight. This suggests one of the greatest needs of the system at the present time, to wit, a number of inspectors, or superintendent's assistants, who shall keep a careful lookout for the needs of the school and for the shortcomings of school officers and teachers.

From the standpoint of administrative science the appellate power of the State Superintendent offers one of the two or three most fertile subjects of study in Iowa government. This is so because the State Superintendent, sitting as a tribunal to pass upon the acts and decisions of Boards of Directors and county superintendents, acts as an administrative court of final jurisdiction, and because it has been recognized that in this country an administrative court is an exotic. The regularly constituted tribunals of the Amer-

¹ *Code*, 1897, § 2776.

² *L.*, 1900, c. 94.

ican and English legal systems have so fully arrogated to themselves all powers of a judicial or semi-judicial nature that a rival tribunal attempting to share the smallest part of their domain is bound to meet with their jealous resistance. It is of value therefore to note how such a body has fared in surroundings so uncongenial. The jurisdiction has been worked out through statute, through judicial decision, and partly through its own definition and interpretation of its powers.

The section granting the power reads, "An appeal may be taken from the decision of the county superintendent to the Superintendent of Public Instruction in the same manner as provided in this chapter for taking appeals from the board of a school corporation to the county superintendent, as nearly as applicable, except that thirty days' notice of the appeal shall be given by the appellant to the county superintendent and also to the adverse party. The decision when made shall be final. Nothing in this chapter shall be so construed as to authorize either the county or State Superintendent to render judgment for money; neither shall they be allowed any other compensation than is now allowed by law."¹ As was shown in the discussion of the county superintendent, his appellate power extends only to cases involving the acts or orders of Boards of Directors. It might be presumed therefore that the section above in its use of the words "decision of the county superintendent" meant decision in the cases appealed to him. But the State Superintendent has as well entertained cases involving merely an original decision or order of the county superintendent himself, associated in no respect with with any proceeding of a Board of Directors—for instance cases where teachers' certificates have been revoked or denied. And as

¹ *Code*, 1897, § 2820.

this assumption of authority has not been disturbed by the courts this wider interpretation of the word "decision" is probably correct. But here the authority of the State Superintendent ends. If the decision or order is of a Board of Directors or county superintendent the hearing of the State Superintendent cannot be attacked for want of jurisdiction. If, on the other hand, it is a decision or order of a meeting of school electors or county supervisors or other officers, though it involve at a most vital point the school system, it is beyond the appellate power. Thus it is evident at the outset that the sphere of appellate authority is a ragged one; and if the development of that authority fails to be a full-rounded whole or to lack in definiteness, some explanation is to be found in its statutory definition.

The denial of power to render money judgments is the one element that, more than any other, has differentiated this tribunal from those strictly judicial. It is, further, the one element that, more than any other, has spared the appellate authority from the active warfare of the courts. For the courts have felt that, without power to assess damages or find the liability on contracts, the judgment of the superintendents could infringe their authority but slightly. And the State Superintendents, conscious of the significance of the reservation, have scrupulously avoided any excess of jurisdiction at this point, and in their decisions, their publications of the school laws, and their instructions to county superintendents have emphasized this restriction more than any other.

The Supreme Court has assisted in the ascertainment both of the extent and the methods of the appellate tribunal. And in so doing it has imported into this authority a number of legal forms and technicalities that have given it something the complexion of an ordinary court.

The finality of the decision in matters properly before the

school tribunal has been supported by the Supreme Court, in the sense that no court will review or set aside such a decision.¹ And the fact that the power has a large element of the judicial character has not led the courts to overturn it as in violation of the constitutional provision that the judicial powers of the government shall be exercised by the courts. In one of the earliest cases, a case decided in 1864,² the question of constitutionality was raised, but the court held that the action of boards and superintendents contemplated was ministerial, saying, "None will claim that the statute, defining and regulating the duties and powers of the school boards of directors invests them with judicial powers. Their acts and their authority in their nature are ministerial, and not judicial."³ The superintendent in reversing the same on appeal is limited necessarily to the same subject and to the exercise of the same kind of power, and when the statute says his decision shall be final, it means simply as a ministerial act." In later cases, however, the courts have spoken of the power as "judicial"⁴ or "quasi judicial."⁵

The courts have recognized that the jurisdiction of the school tribunals is to a certain extent exclusive. Usually in those cases where they provide an adequate remedy the courts will not interfere. For example, it has been held that *mandamus* to compel action by a Board of Directors will not lie where the aggrieved party has a right of appeal

¹ *Wood vs. Farmer et al.*, 69 Ia., 533; *Munn vs. School Township*, 110 Ia., 652.

² *District Township vs. Pratt*, 17 Ia., 16.

³ In *Kirkpatrick vs. Independent School District*, 53 Ia., 585, the court said of the school tribunal, "It may, perhaps, be said to exercise judicial functions, but it does so only in a very slight sense. It is certainly not a court."

⁴ *Desmond vs. Independent District*, 71 Ia., 23.

⁵ *Rodgers vs. Independent District*, 100 Ia., 317.

to the county superintendent.¹ And a teacher claiming that he is wrongfully discharged by a Board of Directors for incompetency cannot, on the ground that the discharge is void, maintain an action for his salary without first appealing to the school tribunal.² The cases where the courts have claimed on their part an exclusive or concurrent jurisdiction in addition to those involving a contract or money judgment, which the statutes have reserved exclusively to them, are as a rule cases in which one or another of the extraordinary writs is necessary to a speedy and adequate remedy. In the case of *mandamus* this finds a further support in the statute itself. The law provides that appeals may be taken only from a "decision or order," and this has been interpreted to preclude appeal in case of omission or failure to act. Here it has been held that *mandamus* is the only means of compelling action.³ Where a board exceeds its jurisdiction *certiorari* has been designated as the proper remedy,⁴ and where the question involves the construction of a statute conferring power upon school officers the courts have quite readily assumed jurisdiction either in *mandamus*,⁵ *certiorari* or injunction. It is at this point chiefly that they have insisted on sharing authority with the superintendents, or even restricting their authority. And in this point the motive has doubtless been more to guard the integrity of the powers of the courts than to afford a supplementary remedy; it has been a jealous motive. The statute provides that the appeal may be taken from a "decision or order

¹ *Marshall vs. Sloan*, 35 Ia., 445.

² *Kirkpatrick vs. Independent School District*, 53 Ia., 585. Of the school tribunals the court in this case said, "It will be observed that they provide a mode that is exceedingly simple and inexpensive, and yet one which is superior in many respects to that which could be furnished by the courts."

³ *School Laws*, 1902, note, p. 86. ⁴ *District Township vs. Pratt*, 17 Ia., 16.

⁵ *Perkins vs. Board of Directors*, 56 Ia., 476.

. . . in a matter of law or fact." Decisions in matters of fact the courts will little disturb, as most of such decisions are hardly different from those of juries or referees; but they are very alive to any matter involving a construction of the law, for the power to construe the law is the distinctive earmark of the judicial office. On the other hand the extraordinary writs are frequently essential to the maintenance of justice, and as such most beneficial. This is nowhere better exemplified than in those cases where the slower method of appeal would permit the consummation of a wrong which injunction could check in its inception.¹ There are some cases where the courts have indicated that proceedings through the courts would be more appropriate than those by way of the school authorities, without disallowing proceedings through the latter channel. Then there have been cases in which there is little choice of measures, or perhaps little real necessity for the existence of more than one, but in which the courts have none the less defended their jurisdiction.² In other States a litigant has sometimes been subjected to a forfeiture in case he pursues a right in a court when a remedy equally expeditious is open to him in a school tribunal,³ but in Iowa if the right is one which under the decisions of the courts the litigant has full right to pursue in the courts, he is not discouraged from appearing there.

The powers of the superintendents when acting within their jurisdiction are in some respects broad. The courts have decided that in cases of appeal from the action of a School Board the superintendents, State or county, have jurisdiction *de novo* by the appeal, and can enter any order

¹ *Hinkle vs. Saddler et al*, 97 Ia., 526.

² *Rodgers vs. Independent School District*, 100 Ia., 317.

³ J. A. Fairlie, *Centralization of Administration in New York State*, p. 42.

that the board could have made in the matter.¹ The State Superintendent, it has been decided, has the power of correcting mistakes in rendering a judgment in a case before him possessed by all courts and judicial officers.² And when an appellate tribunal is unable to decide an appeal because the testimony is insufficient or the transcript of the action of the board is incomplete, and the facts are not sufficiently shown, the case may be remanded for a new trial, or for further action by the Board.³ But in other ways the power of the superintendents is much less than that of courts of law. Although the Code gives the county superintendent power to issue subpoenas for witnesses and "compel the attendance of those thus served, and the giving of evidence by them, in the same manner and to the same extent as the district court may do,"⁴ it still seems that he has no power of committal or fine for contempt, and can only appeal to the ordinary judicial authority for assistance therein.⁵ The county or State tribunals have not been given power to enforce their decisions. In New York this has been accomplished indirectly by granting to the State Superintendent authority to withhold a district's share of the school support in case of failure to observe the decision, or by removal.⁶ In Iowa a person in whose favor an appeal has been decided has the remedy of a writ of *mandamus* from a court of law to enforce the appeal.⁷ As regards the costs, however, such a circuitous course is not necessary. If a county superintendent is of the opinion that the proceedings were instituted without reasonable cause therefor, or if, in case of an

¹ *Munn vs. School Township*, 110 Ia., 652.

² *Desmond vs. Independent District*, 71 Ia., 23.

³ *School Laws*, 1902, p. 89.

⁴ *Code*, 1897, § 2821.

⁵ *School Laws*, 1902, p. 88.

⁶ *Fairlie, op. cit.*, p. 44.

⁷ *Wood vs. Farmer et al.*, 69 Ia., 533. *Newby vs. Free et al.*, 72 Ia., 379.

appeal, it is not sustained, he is required to enter the findings in the record, and tax all costs to the party responsible. A transcript is to be filed in the office of the clerk of the District Court and a judgment entered by him, which is to be collected as other judgments.¹

The State Superintendent has contributed to the rules of procedure, the statutes and the Supreme Court decisions not having occupied the entire field. Some of his rules are in mandatory terms, but the greater number are permissive and advisory in nature. Moreover, he prescribes forms for use in appellate proceedings in common with forms for use in school business generally. The rules are to be gleaned from his decisions. For instance, he has decided that appearance at the trial is a complete waiver of notice, that testimony to be legal must be under oath, that testimony unless obviously immaterial should be admitted and given such weight as it merits, and that at the hearing before the State Superintendent parties interested may appear personally or by attorney and argue their cases orally if they desire, or they may send written or typewritten arguments.

There is not a great variety in the matters involved in these school cases. A great number of them relate to selection or change of school sites, another large group to the discharge of teachers by Boards of Directors. Changes of district boundaries are sometimes brought in question, and cases involving the redistricting of townships, and refusals to restore territory or to establish boundaries appear. The suspension or expulsion of pupils and questions as to the corporation in which they shall be allowed to attend school frequently reach the State Superintendent. The foregoing matters relate generally to orders or decisions of Boards of Directors. Those in which a decision of the county super-

¹ *Code*, 1897, § 2821.

intendent in a matter in which he has original jurisdiction is appealed to the State Superintendent relate almost entirely to refusal to grant certificates to teachers, or their revocation when once granted.

We may note the character of some of these decisions; first, those where an act of a Board of Directors is appealed, second, the case of appeals from the decisions made in the exercise of the original powers of county superintendents.

In case of appeals from decisions of Boards of Directors discharging teachers the State Superintendent has been prone to safeguard as fully as he may the rights of teachers. He has refused to admit the validity of a discharge not made upon full and fair investigation; he has decided that a teacher may not be discharged at a special meeting called for the purpose of securing a modification of his contract. In the selection of a site, when a board violates law or abuses its discretionary power, its action has been reversed on appeal and the Superintendent has himself undertaken to determine what the intent of the school electors was concerning the location of a site and issue his order accordingly. The right of the board to provide and enforce a course of study has been determined in its favor. It has been held that an appeal may be taken from the decision of the board to place a petition on the table. Boards attempting to exercise jurisdiction over children after the termination of the school year have been declared to have exceeded their powers. And where the right of a teacher to punish a child has come before the State Superintendent he has held that the right of the parent to restrain and coerce obedience in children applies equally to the teacher or to any one who acts *in loco parentis*. The conclusion from this decision has been that the teacher may inflict corporal punishment. This decision of itself is sufficient to indicate that the appellate power of the superintendent is of real significance.

Although the rendering of judgments for money and, consequently, judgments on contracts, are prohibited to the school tribunals, the decision of a county or State Superintendent does in fact sometimes determine the direction of a money payment. For instance, it has been held that an appeal from the action of directors in apportioning the assets and liabilities of new districts may be taken, and the final judgment of the county superintendent be enforced by action.¹

The power of the State Superintendent to review the action of a county superintendent in refusing to grant or in revoking a certificate is remarkable, because only by broad construction can it be inferred from the law, and because it grants him a power which the courts themselves have refused to exercise.² Once an officer has exercised his discretion a court will not interfere with it; it will only compel him to act, and "the power of the court is at an end when the officer has acted, however wrongfully [*sic*] his action may be, in the opinion of the court."³ The State Superintendent, however, has made it necessary that in ordinary circumstances at least the county superintendent shall be appealed to for a rehearing before the decision can be carried to him for review.⁴ And it may be said that the State Superintendent would refuse relief unless there had been an evident abuse of discretion on the part of the county superintendent. Among other cases in which the county superintendent's power to act has been adjudicated is one deciding that he may refuse to enroll such persons as members of a normal institute as he has reason to believe are morally deficient. The remainder of the cases are of minor importance.

An examination of the cases decided by county superin-

¹ *Independent School Dist. vs. Independent School Dist.*, 45 Ia., 391.

² *Bailey vs. Ewart*, 52 Ia., 111. ³ *Idem*. ⁴ *School Laws*, 1902, p. 90.

tendents during the last thirty years makes it apparent that there has been a gradual falling off in numbers. In 1873 there were 179, in 1877, 123, in 1881, 107, in 1885 and 1886 a slight increase, there being 110 and 114 respectively for these two years, but from 1886 down to 1891 there was a steady diminution, as follows: 1887, 96; 1888, 77; 1889, 65; 1890, 48. In 1891 the number shot upward to 78, but the decline began almost immediately, and during the five years from 1896 to 1902 there was an average of about 45 a year. The cases carried up from the county to the State Superintendent in recent years have numbered less than half those decided in the counties. This marks at least one advantage in the system of inferior and superior tribunals. It tends to arrest a large number of cases of lesser importance at the first decision, and so relieve the State Superintendent of what otherwise might be an excessive burden. The falling off in the number of cases may be explained in part by the fact that as the country has been settled and the school boundaries and sites fixed the possibility of disputes on these points has materially lessened. The tendency of the county superintendents to advise against appeals, and the little time they have to give to them, have no doubt also contributed to their reduction, while the alternative processes at law which the courts have gradually offered to the discontented have probably attracted many cases that otherwise might have gone to swell the superintendents' lists.

Another important phase of the operation of the system is found in the affirmance or reversal of county superintendents' decisions by the State Superintendent. Of those cases deemed of sufficient importance to find a place in the published school laws, not all cases appearing there, as the State Superintendent in preparing such laws is given power to exclude such as he deems of little moment, the majority

have been reversals. Of the twenty-eight decisions reviewed by the State Superintendent from January 1, 1898, to October 1, 1899, thirteen were affirmed, two modified and affirmed, five reversed, three reversed and remanded, two dismissed, two remanded, and one, a petition for rehearing, denied. It is evident from these facts that the State Superintendent exercises a vigorous independence in his decisions, and is not disinclined to reverse an inferior officer whenever it may seem to him necessary, or on the other hand to adapt the decision to the equities of the case. This bespeaks the need of the superior tribunal, for apparently injustice would be done without it. And so frequent are the modifications and reversals that it is matter of surprise perhaps that it is not taken greater advantage of, and the number of appeals to it increased.

From this partial analysis of the work and operation of the appellate system it is apparent that it contributes very largely to the strength of the State superintendency, and in a measure at least to that of the county superintendency. The knowledge that in a certain large class of questions the State Superintendent may alter their decisions, perhaps entirely disallow them, will make a Board of Directors careful how it proceeds, and will compel it to look beyond the horizon of its own narrow authority to see how the schools work elsewhere in the State, and, with care that otherwise might not be exercised, examine what is law and justice in school administration. This must make toward uniformity in the schools and the development of a feeling of compactness, mutual reliance and helpfulness, and the spirit of organization. Furthermore, the liability of the county superintendent to see his order overturned will make him reflect before he refuses a certificate, and will greatly guard the schools in the county from administration for personal ends or ulterior motives. As much in the knowledge that this power

exists and can be brought to bear, as in its actual exercise, does its virtue exist. It is perhaps the failure to recognize this fact more than anything else that explains the criticism of the appellate authority indulged by school officers of the State on several occasions.

In the brief limits of this discussion any attempt to compare the school tribunals with the administrative courts of continental Europe would be futile. But as it is there that the administrative court has reached its highest development the touchstone of their experience should afford some answer to the several difficulties in the school courts of Iowa. And first of all it may be noted that clearer definition of the powers and jurisdiction of county and School superintendents should be made. The words of the Code are only the most general. The results of this are unfortunate in several respects. Such uncertain language has led individuals from caprice and passion to appeal from the decision of a Board of Directors. With no substantial right invaded or denied they have believed that here was a remedy for their private crotchets, and the irascible have so often made demands under this law that superintendents, chiefly because of its too general terms, have on more than one occasion advised the overturning of the entire system.¹ Its uncertainty is, moreover, a great tax on those who are required to interpret it. To arrive at any definiteness of opinion they must not only scan the act, but must search the decisions of previous superintendents, of the Supreme Court, and often the opinions of Attorneys-General. The school law is composed of a written and an unwritten branch, of an administrative and a judicial law. The constitution and statute or code provisions form the basis; these are written, and are both administrative and judicial. The next place

¹ *S. R.*, 1861, pp. 13, 14; 1865, p. 27.

is taken by the decisions of the Supreme Court which, though primarily judicial, embrace many matters confined to the administrative courts in France and Germany. These decisions thus have an important administrative bearing. The decisions of the State Superintendent are entirely administrative. The opinions of the Attorney-General referred to are such as are given upon request of the State Superintendent. Of recent years, especially, the State Superintendent has sought the advice of the Attorney-General, and in some cases, it would appear, quite allowed him to frame the school decisions. In consequence these opinions are given great weight, and often are printed in the school laws as of equal importance with the other matter contained. The two classes of decisions and the opinions make up the unwritten law. Now if the authority of the State Superintendent were clearly defined, and the extent of his jurisdiction detailed by the law, the labor of search and liability to uncertainty would be vastly reduced. Of course under almost no system could entire relief from the necessity of consulting decisions be obtained, but it could be approximated. The incidental benefit that greater certainty would afford to complainants, to Boards of Directors and to county superintendents is so manifest that it need only be suggested, and if the jurisdiction should be made more definite it might with advantage to the schools be extended somewhat. It seems an anomaly that the superintendents have authority when Boards of Directors have acted, but none when they have refused to act. If the State or county superintendent were given power, within certain limits, to perform the functions of such boards when they fail to perform them, there can be little doubt that the directors would be seldom neglectful, and almost never contumacious. And this would not be an entire innovation, for under the township school inspector system the school

inspectors, and at some other times the Boards of Directors, were authorized to levy taxes when the school electors failed to do so. When district meetings have acted illegally, without proper notice, or in evident disregard of rights, would it not be well if the school tribunal had some power to grant a remedy? The New York law, after enumerating the appellate powers of the State Superintendent in detail, finally provides in general that he shall have jurisdiction in cases where any person conceives himself aggrieved in consequence of any decision made by "any other official act or decision concerning any other matter under this Act, or any other Act pertaining to common schools."¹ It is not argued that this measure of power should be given the Iowa school tribunals, but it is submitted that some extension would be wise.

The question of enforcement of decisions is closely related to that of jurisdiction. As explained, the superintendents have no power of enforcement, and, except in the case of costs, the one in whose favor judgment is rendered can, in case of non-performance, enforce his judgment only through *mandamus*. Compliance is the rule, but in those cases where it is refused it seems a hardship that a second action should be necessary. There are doubtless a number of ways in which the State Superintendent could be made efficient in this respect without derogating from the authority of the courts. One that readily suggests itself is that of giving the superintendent power to withhold a district's share of the school fund. Although he has no part now in the care or apportionment of these funds, there would be nothing inconsistent in granting him authority to stay their distribution in the hands of the county treasurer until the local Board of Directors had yielded obedience.

¹ *Consolidated School Law*, title xiv.

The obedience of the county superintendent could be enforced through a power of suspension from office. This would only push a little further the power that already exists to appoint a substitute to make reports when the county superintendent fails.

Again, the organization of the State Superintendent's office in its relation to appeals has been criticised. And there seems a need for almost immediate alteration here. The State Superintendent when a case is brought before him must himself hear the arguments, read through all the testimony and, except as he may be assisted by the Attorney-General, advise himself of the law. His deputy in this, as in his duties on the several Educational Boards, cannot represent him or take his place. The consequence is that he seldom spends less than two, and often more, days in work upon a single case, a part of which might be left to an assistant. If he were given an assistant merely to read through and digest the testimony his labors would be greatly lightened. If in addition that assistant were required to have a legal education, not only would a further burden be removed from the shoulders of the State Superintendent, but the value of his decisions would be increased. Courts of law have their methods of securing assistance in their work. They have their referees and commissions, juries and masters, to find fact and evidence. These aids are incidents of courts; and if the school tribunal, dignified as it is with a final jurisdiction, is worthy of the powers given it, it does not appear why their exercise should not be facilitated.

The advisory influence of the State Superintendent manifests itself in a variety of ways, ways that indicate how generally he has been regarded as an advisory officer. The provision that he shall attend teachers' institutes when consistent with his official duties, that he shall visit teachers' association meetings and make tours of inspection among

the common schools, that he "may deliver addresses upon subjects relative to education," and may collect and publish statistical and other information relative to schools and education, and prepare leaflets and circulars relative to Arbor Day, Memorial Day and other days that he deems worthy of observance in the public schools—these powers all attest his capacity to mold the public school system through the force of suggestion and advice. His power to prepare courses of study for use in the public schools is little more than advisory, as is his authority and duty to render opinions on the school law when requested by subordinate school officials. He has been made a member of the Board of Regents of the State University and of the Board of Trustees of the College of Agriculture and Mechanic Arts because of his familiarity with school matters and the consequent value of his advice, from that standpoint, to these institutions. His position on the Board of Trustees of the State Normal School is somewhat different, for he is its president, and so wields an influence more direct than that of counsel. His membership of the State Board of Educational Examiners—so small is that body—also gives him a direct administrative strength as well as a large advisory influence.

There is no other office or officer that touches the educational system in all its parts, no other in which experience with the common schools is made to temper the attitude toward higher education, or knowledge of the internal administration of the colleges of the State sheds its direct light upon the administration of the grades. This is an essential fact in the school system. And it is no less essential to remember that the force which binds the parts together thus in the office of the State Superintendent is not the force of direction or compulsion. It is the milder, and some may say weaker, force of counsel and suggestion.

The State Superintendent has used his advisory influence with telling effect in a number of cases. He has succeeded in awakening a strong sentiment for consolidation of rural schools and the transportation of children. The crusade by him to secure this end was undertaken systematically, by sending to county superintendents and others printed forms seeking full information and free expression of opinion on the matter, by preparation of circulars showing the work done elsewhere in this direction, and the ways in which the experience of others could be adapted to the conditions in Iowa. So thoroughly did the Superintendent disseminate this information, and so skilfully did he make his case, that among the county superintendents, ninety-five per cent. of whom favored the reform,¹ and among a large body of teachers, a strong sentiment for this improvement was awakened. This must mean advancement in the future.

State Superintendents in the past have attempted to aid school districts to secure good plans for their school houses. This has been in response to a feeling on the part of some of the rural districts that naturally he should have in his office a number of such plans to be loaned to districts intending to build. And to meet this need a Superintendent has asked authority from the Legislature to employ architects to prepare such plans and specifications.² But this has not as yet been granted, and the Superintendent has done the next best thing; he has secured cuts of buildings already erected,

¹ *S. R.*, 1901, pp. 35, 36. This report, at p. 73, states that "Consolidation has been tried in twenty-eight counties, transportation in thirty five and both in nineteen. Consolidation has been adopted by sixty-three districts, and eighty districts have transported pupils at the expense of the district. In nine counties districts have been consolidated without providing transportation at the expense of the districts. In sixteen counties pupils have been transported where there was no consolidation."

² *S. R.*, 1893, p. 18.

which he prints in his biennial report. The report of 1901 devoted forty pages to this purpose. From 1848¹ to the present day superintendents have at intervals attempted in this way to fill the need, but with the slight means at their disposal have not accomplished over much. The school houses have improved. In 1861 the log school house began to disappear. In that year there were 893 such school buildings out of a total of 3,479. In 1849 the average value of each of the 387 school houses was \$100; in 1860 the average of the 3,208 was \$376; in 1874 the 9,228 then reported were worth on an average \$892, and in 1892, \$1,040² was the average value of the 13,275 schools of that time. Thus there has been a gradual betterment, but a betterment due rather to the increasing population than the dozen or so second-hand plates contained in the school reports. There is place here for beneficial legislation.

The courses for schools prepared by the State Superintendent and sent broadcast over the State have contributed markedly to uniformity in instruction. The inspections, lectures and written opinions of the State Superintendent have all brought information and suggestion to doors where it is avidly received and made the most of. And the Superintendent in his direction of county superintendents' conventions and his acknowledged primacy in the State Teachers' Association has often spoken the word or given impetus to the movement that has resulted in a consensus of opinion, and adoption of measures by school officials that have done as much to improve the school system, to supplement or even fill gaps in the law as legislation itself has done. The State has been fortunate in the character of the men who have held the office of Superintendent. Their opinion has usually carried the weight of high character and strong personality, and in this way weak powers have

¹ *C. J.*, 1848-49, pp. 310, 311.

² *S. R.*, 1893, p. 184.

often proved strong and the schools made efficient in spite of legal inadequacies.

We shall not pause here to inquire into the details of the State Superintendent's advisory powers in the several State Educational Boards and bodies. These will sufficiently appear in the discussion of those institutions, and particular examination of the Superintendent's relations to them would make needless repetition.

2. STATE EDUCATIONAL BOARDS

It has been noted in the historical sketch of the school administration that centralization has taken two forms, the first in the increase of the State Superintendent's powers, and the second in the development of State Educational Boards or auxiliary institutions having certain well-defined powers hitherto unknown to the central authority. These boards and institutions have been the State Board of Educational Examiners, the State Teachers' Association, and the Boards of Trustees of the State University, the State College of Agriculture and Mechanic Arts and the State Normal School. We may examine them in the order mentioned.

a *The State Board of Educational Examiners*

Previous to the year 1861 the examination of teachers, what little there was, was conducted entirely by district, township or county officers. Previous to 1858 it was by district or township officers entirely. At two different periods, from 1838 to 1840¹ and from 1848 to 1858,² it was by Boards of Directors. During the concluding years of the latter period in the particular case of thickly-populated districts provision was made for a special local Board of Examiners, appointed by the Board of Directors, and

¹ L., 1838-39, *Act* Jan. 1, 1839.

² L., 1848-49, c. 99.

consisting of "three competent persons, citizens of said district,"¹ who were given power to examine applicants to teach, to issue certificates and annul them, and with the Board of Directors to visit the schools. From 1841 to 1847 the examinations had by law been vested in the township inspectors, but there was much complaint that this duty was not performed by them or was performed unsatisfactorily. The lack of some uniform standard was the principal ground of complaint. County examination of teachers was not known until 1858, though previous thereto a State Superintendent had recommended that the county school fund commissioners should be given this power.²

The Board of Educational Examiners of the State as created by the act of the State Board of Education of 1861³ was substantially a reproduction of the ideas of the secretary of the latter board in his report to it for the year. He had believed that the Faculty of the State University should constitute the board, because of their "unquestioned ability, and as a matter of convenience and economy."⁴ In his recommendation there also appeared the idea, often held in the early school history of the State, that the normal department of the State University should be charged with the highest authority in the preparation of its teachers. He advised that the professor of the normal department should be the president of the board. The board thus constituted was to hold annual sessions of one week, and such special sessions as they might deem proper, at the State University. They were to take as a standard of the qualifications of applicants the course of study required in the normal department of the University, and their certificate—they had but one—was for life. This certificate the board might

¹ *L.*, 1857, c. 158.

L. S. B. E., Dec. 20, 1861.

³ Parker, *op. cit.*, pp. 33, 34.

⁴ *Sec. Rep.*, 1861, pp. 16, 17.

revoke in case of gross immorality, "or any other cause of disqualification," of which cause the board itself was to be the judge.

The board, like other products of the period, was almost a failure. It was a creation too ideal in nature; the qualifications required were probably too unfamiliar to, if not too advanced for, those who might wish to teach. As a result, during the time this law remained on the statute books, but seventeen persons applied for certificates, eight of whom were rejected.¹ In addition the board issued certificates, without examination, to persons holding first-grade certificates from some other State and to graduates of the normal department of the State University.

This law was repealed in 1873, and from then till 1882 there was an interval in which the State was without any central examining authority. A number of bills for a new board were proposed in the interim, and recommendations were made by officials for something to take the place of the venture of 1861.² The plan finally adopted contained some of the features of the old system, but others so foreign to it that it really made provision for a totally different institution. The old system was imitated by making the president of the State University and the principal of the State Normal School, which had now come into being, members of the board. Besides these officers, the Superintendent of Public Instruction was made an *ex-officio* member. And two others, one of whom should be a woman, were to be appointed by the Executive Council, neither to be his own successor.³

Sessions of the board were to be held twice annually, to be presided over by one of the members, assisted by such

¹ S. R., 1875, p. 127.

² S. R., 1875, p. 127; 1877, p. 67.

³ L., 1882, c. 167.

well qualified teachers, not exceeding two, as the board should elect. It was given power to issue two classes of certificates, first, State certificates, good for five years, which called for an examination in orthography, reading, writing, arithmetic, geography, English grammar, book-keeping, physiology, history of the United States, algebra, botany, natural philosophy, drawing, civil government, the Constitution and laws of Iowa, and didactics; second, State diplomas, good for life, requiring in addition to the subjects essential to the State certificate the following: geometry, trigonometry, chemistry, zoology, geology, astronomy, political economy, rhetoric, English literature and such other subjects as the Board of Examiners might require. They were given power to revoke certificates "for any cause of disqualification, on well-founded complaint, entered by any county superintendent of schools."

The requirements for the State certificates and diplomas have remained unchanged,¹ but in other respects there have been significant alterations and additions of power. The board has been empowered to grant "special certificates" to teachers of music, drawing, penmanship or other special branches, "or to any other primary teacher, of sufficient experience, who shall pass such examination as the board may require in the branches and methods pertaining thereto for which the certificate is sought." Such certificates are not valid for any branch other than that for which they are given.² Superintendents have also recommended that the board be given power to issue special certificates to high school teachers, based upon the branches usually taught in the higher schools of the State.³ This has never been done, however, and would seem hardly necessary, as the high

¹ But see *L.*, 1902, c. 114.

² *Code*, 1897, § 2630; *L.*, 1900, c. 96.

³ *S. R.*, 1895, p. 51.

school teacher's application is usually made a special case by his employers, and high school teachers as a class are more and more men or women with collegiate training.

In 1890 the board was given power to issue its certificates and diplomas to graduates of the State Normal School under certain conditions. Although at about this time it was urged that the board should be allowed to inspect, whenever invited, the courses of study and work done in private schools and colleges which purpose to prepare teachers, and if they find them satisfactory to grant certificates upon certain fixed conditions,¹ this power was not granted until 1902.² Under a law of that year schools applying to the board are examined with reference to course of study, equipment and faculty, and thereafter an enduring relation is established between these private institutions and the State administration, for it is provided that schools so examined shall receive annual inspection by some member of the board or some one appointed by it for the purpose. And the principals or superintendents of schools once accredited must file annually with the board a sworn statement giving statistics concerning the students in attendance. The board has received a number of applications for such inspection since the law went into operation, and it is believed that the ultimate result will be to make it the informal director of teachers' education in all the schools of the State. This acquisition of authority certainly adds greatly to the place and importance of the board.

Though under the act of 1861 the Board of the University Faculty granted certificates without examination to teachers from other States giving evidence of due preparation, this power was not given to the new board until 1897. It was then authorized to issue a certificate or diploma "to any one holding a diploma issued by a state normal school

¹ *S. R.*, 1891, p. 62.

² *L.*, 1902, c. 115.

or a certificate issued by a state superintendent or a state board of education, of any other state, when the same is in all respects of as high a grade as the corresponding certificate or diploma issued in Iowa, upon proof of experience." ¹

Complaint had been made at various times, notably in 1895,² that the board could not revoke its certificates without the initiation of the county superintendent, the law allowing such revocation only at the instance of the county superintendent. The complaint had its effect, and accordingly in 1897 the board was given plenary power in the matter, and may now revoke upon due notice to the holder of the certificate or diploma, and after allowing him to be present and make his defense.³ The board was strengthened further in 1898 by the provision for a secretary, under whom the examinations are usually conducted,⁴ thus relieving the other members of a burden of ministerial work.

The number of teachers necessary to supply the schools of Iowa in 1900 was 18,906. On September 30, 1901, of the certificates and diplomas of all kinds issued by the board there were in force 2,365.⁵ So something more than one-eighth of the teachers of the State are examined by the board. In its history to October, 1901, it had issued in all 3,741 certificates or diplomas, and in addition had refused a considerable number. In 1900-1901, for instance, of the 1,100 candidates for certificates or diplomas 111 failed.⁶ The number of examinations has steadily grown, and the evidence is strong that the State examinations are increasing in favor with the teachers. It has been remarked that there is a manifest disposition among them to

¹ *Code*, 1897, § 2630; and for results see *S. R.*, 1899, p. 177.

² *S. R.*, 1895, pp. 51, 52. ³ *Code*, 1897, § 2631. ⁴ *L.*, 1898, c. 73.

⁵ Computed from *S. R.*, 1901, p. 189.

⁶ *S. R.*, 1901, p. 188.

work first for the certificate and afterwards for the diploma.¹ And the examinations have been not a source of loss, but of profit to the State, the total income from fees at the last report, for the period 1882-1901, having been \$12,479, while the total expenses were but \$8,928.43.² In every way the State examination is one that may be encouraged.

The preparation of the teachers of the State is not yet what it should be. The county examination is not adequate. It fails most conspicuously in encouraging the higher preparation. In 1900 of the 18,906 teachers necessary to the schools of the State nearly 8,000 had less than one year's experience, while 12,615 in country schools held county certificates of the second and third class, and nearly 6,000 had received only such scholastic instruction as is provided in the rural schools and the smaller cities and towns.³ These conditions have been made the basis of arguments for additional normal schools. They as well attest the need for a general raising of the level of the lower examinations, for only in this way will the inefficient teachers be eliminated. And it would seem that this cannot be done without a greater centralization, without State supervision and direction; for as long as there are 99 county superintendents issuing certificates just so long will there be 99 different standards and looseness and uncertainty of method. And while this system continues unmodified it is to be expected that many county superintendents will be skeptical of the thoroughness of the examinations by their fellows, and will justly resist the registration of certificates issued in counties other than their own. To the argument that depriving the county superintendents of the right of examination would reduce the office to a powerless

¹ *S. R.*, 1895, p. 52.

² *Ibid.*, 1901, pp. 188, 189.

S. R., 1901, pp. 17, 126.

position—if that be admitted an undesirable prospect—strong answer is found in the suggestion that while the State board is given the power to issue all certificates, that of vetoing the board's grant in case the candidate lack in moral character, aptness to teach or ability to govern may be reserved to the county authority. It is believed that this is a subject that will not down, that discontent will grow among those who reflect upon the system of examinations in Iowa, and that unless all the signs of the times are false the broad result will be central control of the preparation of teachers and central examination of those seeking to practice their profession.

b. The State Teachers' Association and the High Schools.

The State Teachers' Association, though an extra-legal organization, claims attention because it has provided an element in the school administration which in many States is found in regularly constituted officers or boards. This element appears in the determination of courses of study and the standard for high schools.

The term "high school" as a specific description is not known to the laws of the State.¹ And at no time has there been a law which has provided sufficient supervision of intermediate education. The very general power of the State Superintendent to pass upon the courses of instruction in "higher" or "graded" schools has meant almost nothing. Very few courses have been submitted for his approval.² He has no inspectors, or other than office assistants. He cannot himself give the time to the inspection of these schools without sacrifice of other interests.

¹ L., 1848-49, c. 99, was the first law to contemplate schools of advanced grade. It provided that school directors might establish "a school of a higher grade" in their districts. The law was not of much practical significance for many years.

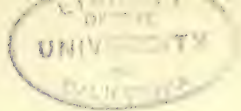
² S. R., 1899, pp. 43, 45, 46.

Failing adequate administrative machinery, the Board of Regents of the State University and the State Teachers' Association have lent a hand. That they have persuaded many high schools to adopt their courses of study has been largely due to the fact that they exercise a real power, that of accrediting such schools to the colleges and universities of the State. Every high school is anxious to become thus accredited, for it is an evidence of fitness.

The earlier work of the State Teachers' Association was rather advisory in character. But it tended constantly to give a definite meaning to the term "high school," which previous to 1873 had signified little more than an advanced graded school, until now it is a more exact description in Iowa than either college or university.

The teachers at various times made rules and outlined courses for high school instruction, and their advice met with a generous reception at many hands. But only gradually have their resolutions been given almost legal force, and become, as it were, a part of the school law. In 1900 the General Assembly authorized the State Superintendent to publish and distribute a course of study for high schools. The State Teachers' Association having for several years been at work through a committee on a manual for high schools, it was thought wise that the school department should co-operate, and the manual prepared by the association was published by the Superintendent. By considering the peculiar conditions and needs of Iowa schools, the requirements for a high school course suggested by the National Educational Association, and the entrance requirements of Iowa colleges, it evolved a thorough plan of instruction. It also prescribed anew rules for the accrediting of the schools.¹ Application is to be made by the proper school officer to the secretary of the committee on secondary

¹ *S. R.*, 1901, p. 261.



school relations, or to the professor of the science and art of teaching in the State University, who is also the official recorder of the committee on secondary school relations representing the college department. Upon receipt of this application, together with a statement of the high school course, an analysis of the course is made in the office of the official recorder. After the high school has been inspected and the inspector's report and the analysis of courses have been submitted to the committee on secondary school relations, the committee will accredit the school, if it appears that the conditions required have been met. It will be seen that the State University, the State Superintendent and the State Teachers' Association are component forces in this movement, but that the regulations are primarily in the name and by the authority of the State Teachers' Association. If the State is to assume directly the supervision of high school education one of two things will probably be necessary, either the power of the State Superintendent will have to be made more definite, and perhaps increased, and a corps of inspectors or assistants attached to his office, or a State Board of Education created, of whose authority the direction of high schools may be made a part.

3 THE BOARDS OF TRUSTEES OF THE STATE EDUCATIONAL INSTITUTIONS

From the first higher education has been considered a function of the State. The policy of making it such had its origin partly in the conception of Commonwealth duty entertained by early legislators, and partly in the incentives offered by the United States government in the public land grants. Other States whose admission shortly preceded that of Iowa had been given lands for the encouragement of higher education, and so Governors and members of the Legislatures and of the constitutional conventions united in the effort to obtain like concessions.

The State University was the first State educational institution to appear. A law of 1847¹ provided for its organization, but it had no real existence until 1854.² The University was discontinued a few years thereafter, but was reorganized in 1860.³ The project was cast in an ambitious mold. Indeed, the sanguine expectations of the guardians of the educational interests carried them so far that in 1849 they provided for two branches, which were in fact to be largely independent, and which, with a hope of securing further national aid, were given a basis well-nigh as broad as that of the State University itself.⁴ But the aid was not forthcoming, and the interest flagged until in the Constitution of 1857 the possibility of three or more State Universities with three or more Boards of Trustees was given its constitutional quietus, the Constitution of that year providing that the University should be established at Iowa City without branches at any other place, and that the university fund should be applied to that institution and no other.⁵

In 1858 the State College of Agriculture and Mechanic Arts, or, as it was then called, the State Agricultural College and Model Farm, was established,⁶ and in 1876 the State Normal School.⁷ The State Agricultural College was but the expansion of an idea that had been entertained from the beginning of the State, and had found expression in the Constitution and the frequent legislation that granted support to farmers' institutes or in other ways fostered the agricultural interests. All that was needed to bring it into being was a touch of the right precipitant, and this the offering

¹ L., 1846-47, c. 125.

² Parker, *op cit.*, p. 79.

³ *Report of the Senate Committee of Schools and State University, S. J.*, p. 227; Parker *op. cit.*, pp. 86, 87.

⁴ L., 1849, c. 114, c. 115, c. 117.

⁵ Cons., 1857, Art. 9, Subdiv. 1, § 11.

⁶ L., 1858, c. 91.

⁷ L., 1876, c. 129.

of public lands by the United States government afforded. The State Normal School was the late fruit of a seed sown at a very early time. An act of 1848¹ had provided that the State should be divided into three districts, in each of which should be established a normal school governed by a Board of Trustees appointed by the Board of Trustees of the State University; later by the State Superintendent.² There were several appropriations for the schools and efforts to put them in operation,³ but they amounted to little, and until the State Normal School was established in 1876 at Cedar Falls there was practically no State instruction for teachers save that in the normal department of the State University.

These three institutions are, and throughout their history have been, governed by distinct boards that, varying frequently in their composition and sometimes in important elements of their powers, have yet constituted independent administrative bodies under no superior except the Legislature and, in some minor points, the administrative and executive departments of the State government. For a brief period the Board of Regents of the State University was chosen by an educational board, the State Board of Education, and so was in a measure amenable to it.⁴ But, as has been pointed out, this board was in school matters the State Legislature for the period from 1858 to 1863, and so the case may be argued no real exception, or, if one, an abnormality, and so unimportant. And not only have these boards been independent; there has been little close relation, even of a consultative nature, between them. The State Superintendent is now a member of all three of these boards,

¹ *L.*, 1848, c. 78.

² *L.*, 1848, c. 78; *L.*, 1851, c. 74.

³ *L.*, 1851, c. 74; *L.*, 1856, c. 209. These instances are illustrative merely, and do not exhaust the material.

⁴ *L.*, *S. B. E.* Dec. 25, 1858.

and is president of the board of the State Normal School.¹ The Governor has for many years been a member and president of the Board of Regents of the State University. In 1898 he and the State Superintendent were made members of the board of the State Agricultural College.² Through the Governor, then, there is the opportunity for bringing the State University and the State Agricultural College into some harmony with the general State administration, through the State Superintendent of making known to all three institutions the course that will best subserve the interests of the school administrations, but there is nothing to compel this harmony.

The board of each institution is elected by the General Assembly. The regents of the State University are composed of one member chosen from each congressional district of the State for the term of six years, while the six trustees of the normal school, having the same term, are chosen from the State at large.³ The boards are non-partisan only to this extent, that all the members on the same board may not be of the same political party. The presidents of the three institutions, though they have been members of their respective boards in the past are no longer so, and thus the administration is entirely apart from the institutions themselves.

Of the powers of these boards it may be said, in general, that they extend with little limitation to the full supervision and government of the institutions. Among the more important powers of the Board of Regents of the State

¹ In 1847, when the university was provided for he was made *ex-officio* president of the board, *L.*, 1847, c. 125; after abolition of State Board of Education he was at first omitted from the Board, *L.*, 1864, c. 59; again made a member in 1870, c. 87; dropped in 1873, *Code*, 1873, § 1587; replaced in 1876, c. 147.

² *L.*, 1898, c. 76. However the State Superintendent had previously been a member of the Board for several years.

³ *Code*, 1897, § 2609.

University are the power to appoint and discharge the president, professors and instructors, to grant degrees and diplomas, and authorize the sale of university lands and the investment of university funds. The Board of Trustees of the State College of Agriculture has similar powers, as also has the Board of Trustees of the State Normal School except that, this school having no special estate or endowment of its own, the board has power merely to make requisitions upon the appropriation of the State Legislature.

The institutions of higher education have prospered under this independent board system; the State College of Agriculture has taken a place in the front rank of educational institutions. The State University is not so prominent, but this is hardly due to any defect in the administrative system. It is attributable on the one hand to the comparative newness of the State, and on the other to the lack, in the past, of generous appropriations. The State Normal School has grown by leaps and bounds, and the pressure for more adequate facilities is becoming strong, many of the neighboring States having three or more such institutions.¹ There is as yet little call for any great degree of centralization in the administration of these institutions. They are still in their formative period. Their character is not developed. And until the full extent of the service that higher education must perform in the State has been ascertained, and the consciousness of the unity of all educational interests has more fully developed in the minds of the people, these institutions will perhaps develop best if left to themselves and their separate boards. But gradually, step by step, it must appear that central advice and central supervision will increase greatly the economy and efficiency of this branch of the school system.

The independent colleges and universities of the State,

¹ *S. R.*, 1899, p. 33.

of which there are now some thirty-one, have been allowed to grow as they would. Legislatures and State Superintendents have ever kept their hands off. And this has probably been the necessary price of their establishment. But now that they have taken root it would seem that the time had arrived for State interference. There are a number of such institutions maintaining a high standard, but many have courses but little above a good high school course. Administrative regulation of charters, and perhaps of degrees and courses, is a remedy needed in many cases.

V THE RELATIONS OF THE SEVERAL BRANCHES OF THE SCHOOL ADMINISTRATION

In the discussion of the present system of administration and its evolution one fact or tendency has stood out above all others. The school administration is not closely organized. It has not been systematized save in a loose and, as it were, concessive manner. We see the school directors and school electors shaping willy-nilly the school unit, to the destruction of uniformity in the foundations of the schools. We see the county superintendents exercising powers which are in other ways exercised in part or participated in by central administrative authorities. The county superintendent examines teachers; the State Board of Educational Examiners examines teachers; the State Superintendent through the board and through his questions prepared for the county superintendents examines them. It is difficult to say just who does examine them. In fact there is no standard test. And these are single illustrations, that might be multiplied, of the nature of the administration. The Legislature in many instances has intended and secured decentralization, in several it has intended centralization and has secured it, in a number it has intended centralization and failed to secure it, in the balance it has in-

tended nothing whatever—so far as consistent relationship of one part to another is concerned—and has secured it.

The common school system of Iowa is theoretically symmetrical. Many Legislatures, school officials, and the courts as well, have contributed to the theory that the system is the common school system of the *State* and not of localities, rising in well-defined stages from the primary, through the high schools to the State University, the State University as well as the lowest grade being part and parcel of the "common school system." There is thus in public opinion the foundation for a well-rounded system of school administration, and that it has not been entirely realized is due chiefly to the bargaining and opportunistic attitude of the General Assemblies and their failure as yet to grasp at one moment all the interrelations and the interdependence of the parts of the school administration.

The centralization of the last forty years has been in response to proved needs. At each addition of power only a part of the school system has been in review, and that part alone affected by the law. Very naturally the result is a somewhat rambling and disjointed structure. Certain definite powers we have seen are already in the hands of the State authority. Conspicuous among them are the power to decide appeals, the power to direct the instruction of teachers in the counties, a measure of authority in the examination of teachers, in the prescription of courses for the high schools, and the decentralized State control of the State's higher educational interests. But it is in the indefinite, the as yet not fully realized powers, that the progress of the tendency toward centralization is most prominently marked. Authority has been brought up to the State capital under a veil. It may not be announced for five, for a score of years, but it is there, and all that is needed is the signal which shall cause the veil to fall and the power to be proclaimed. The power

of the State Superintendent to publish the courses for the common schools; this with the change of a word or two will bring the power to direct, to a large extent, the observance of these courses. His power to pass upon courses in higher schools awaits only the provision for assistants in his office to render it effective. His power to appoint substitutes when county superintendents fail to make reports is the next step to the power to appoint substitutes when they fail in any of their duties. It is very near to the power of removal. The ever increasing authority of the Board of Educational Examiners to grant various certificates on examination, and its power to revoke such certificates, is probably not far from a complete central control of teachers' examinations. Its authority to inspect private normal schools and accredit them, and to enter into reciprocal relations with other States in granting certificates, clears the way for the assumption in time of almost complete direction of the educational qualifications of teachers. The manual prepared by the State Teachers' Association and published under the authority given the State Superintendent to prepare a course for high schools has created a standard for high schools that once given statutory endorsement may bring the day of State examination of high school students. And making the State Superintendent a member of the boards of the three State educational institutions and president of one of them, and the Governor a member of two and the president of one, has pointed the way toward the welding of all the school interests under one supervisory authority. In fact there is hardly a direction in which some step has not been taken toward central control except in the matter of common school finance,¹ other than the school

¹ Of late years there have been some slight indications that the State has been preparing to aid the schools. In 1900 a bill providing for public high schools, which should be supported largely at State expense, passed the house of representatives, but failed in the senate. *S. R.*, 1901, pp. 15, 16.

fund, and the regulation of the independent colleges other than normal schools.

It has been pointed out wherein a change in the school unit has long been desirable. And it has been shown that the weakening of the county superintendency through the strengthening of the central administration will probably necessitate a reconstruction of the county administration. It now remains to ask what changes may be wrought in the central organization?

Since the days of the State Board of Education a general State council of trustees of public education has not been seriously debated. Yet only through an administrative council, a council or board without legislative powers, does the way seem clear for elimination of the wastes of the present system. As it now exists, with its independent boards, there is much duplication and much failure of information, defects that the consolidation of interests would terminate. It is of course to be admitted that the several State educational institutions need particular administration, that is, each needs the care of a body whose attention is devoted chiefly to it. And the common schools above all need direct and special oversight. But these things the idea of a State council of trustees does not fail to find ample room for. It may be made up of a series of boards, one for the State University, one for the State Agricultural College, one for the State Normal School and the instruction and examination of teachers, one for the high schools, one for the primary schools, one for university extension or otherwise, each board practically independent within its sphere. But when matters of general interest, or matters touching more than one board, are under consideration, the council would act in boards united, or a sort of administrative committee of the whole. The State Superintendent may be continued as the executive chief of the council. It is not so much in

the organization of this council as the manner of choice of its members that the difficulty would lie. The boards of the educational institutions elected by the General Assembly, and the State Superintendent chosen by the electorate, are now dependent upon party politics. The non-partisan element in the boards is almost entirely wanting. It should be extended. And the manner of choice of the council should be modeled more after that of the Board of Educational Examiners, whose members obtain their place by virtue of educational office or by appointment. The final element should be an increase in the tenure of office. In this way it would seem a State council whose interests were those of the schools, and whose qualifications were those of educational administrators, would be most likely to be obtained.

Since the year 1870 Iowa has stood first or second among the States having the smallest percentage of illiterates. In some points, however, it has fallen below other States. It has paid its teachers lower salaries than many States. Its direct assistance to high schools, to normal schools and to higher education in general has been considerably less than that of a number. But on the whole its educational progress has been remarkable. For this reason the advocacy of betterments might seem impertinent were it not remembered that the upward tendency of the State, its striving for improvement, is a constant invitation to such recommendations. The State has claimed the schools as its own. Almost unconsciously it has by gradual degrees brought them nearer perfection. All that is needed then is to encourage the movement in the groove that it now follows, and awaken the instinctive groping to a conscious knowledge that what it wishes and is aiming for is in reality a further development in the centralization of its school administration.

CHAPTER III

CHARITIES AND CORRECTIONS

I HISTORICAL DEVELOPMENT OF THE ADMINISTRATION

THE most important act in the development of the charities and corrections of Iowa was that of March 26, 1898. This act at one stroke consummated the centralization of the control of State institutions, under the Board of Control. Only second in importance was the act of April 7, 1900, which provided that the Board of Control should have power to inspect and supervise local institutions, county or private, in which insane persons are cared for. This law marked the first step toward the central direction of local administration in this department.

The local administration of charities and corrections falls into two clearly defined periods, the first extending from the beginnings of government in Iowa to the act of 1900. During this period the locality was left to its own devices, unmolested by any State official. In 1900 the first step toward centralization was taken. From one viewpoint, however, it may be said that with the granting of State aid to special classes, and the establishment of the State charitable, reformatory and penal institutions, a decided departure from local administration was made, for the State thus assumed functions that otherwise must have developed to a greater or less extent in the local divisions.

The administration of the State institutions as well evinces two chief periods, that from the foundation of the institutions to 1898, a period of large administrative independ-

ence; that from 1898 on, a period of administrative dependence upon the central board. But in this case there is the lively suggestion, at least, of a third period, a period of agitation and transition with elements of limited centralization. This period begins in 1870 and extends to 1898.

Though central and local administration in these matters are closely related, it will conduce to clearness in the description of their development in Iowa if the two are distinguished and discussed somewhat apart.

I. DEVELOPMENT OF THE LOCAL ADMINISTRATION

The local public administration of charities in Iowa has been confined to poor relief, and, largely as an incident thereto, the care of the insane. There have been certain private charities for special classes, but they are special classes of the poor, usually orphans, sometimes the aged, rather than any who by reason of an unusual physical infirmity, other than insanity, need distinctive aid. The care of the blind, of the deaf and dumb, and of the feeble-minded has ever been assumed by the State. Local correctional or reformatory administration is lacking, while that of a punitive character is confined to the prisons and jails.

Save for a period of hesitation in the early territorial laws the obligation for the support of the poor has been with the counties. The laws of Wisconsin, under which Iowa, at least nominally, had been administered, provided for county relief.¹ The first session of the territorial Legislature failed to provide for the creation of townships, and only indirectly referred to a pauper class, mentioning it in a law² concerning the management of affairs of insane persons. The laws of the second session provided for

¹ *Laws of the Territory of Wisconsin*, 1836-38, p. 128.

² *L.*, 1838-39, Jan. 19.

county support.¹ There was also legislation for township organization.² The township officers were numerous, and among them were two overseers of the poor. The second session following, an act was passed which tended to throw the responsibility for poor relief into confusion.³ Its effect was apparently to make the township itself liable for all paupers of doubtful settlement, the directors of the poor of the county having power to reject the pauper if they believed he had not gained a settlement in the county. This was out of harmony with the policy of county responsibility. And it is probable that the Legislature exceeded its intention, for within two years it expressly repudiated the law and made the provisions for county obligation unequivocal.⁴

One of the significant features of these early laws is found in the multiplication of offices. There were to be special directors for the county poor houses,⁵ though in financial matters they were amenable to the county commissioners. However, when in 1851 the county judge was made the county administrative authority, his direction of the administration of the poor relief was practically absolute.⁶ In 1860 when he was succeeded by the Board of Supervisors the management of poor relief was not detached, but made a part of the central county administration.⁷ Even in the townships in the earlier period there was a double set of officers, the overseers of the poor and the township trustees, checking each other in the poor administration, a system that endured for something less than five years, when in 1845 the township trustees were made by virtue of office both overseers of the poor and fence viewers.⁸

From the final lodgement of responsibility for care of the

¹ *L.*, 1839-40, c. 59.

² *L.*, 1839-40, c. 39.

³ *L.*, 1841-42, c. 67.

⁴ *L.*, 1843-44, c. 12.

⁵ *L.*, 1841-42, c. 93.

⁶ *Code*, 1851, § 828.

⁷ *L.*, 1860, c. 46.

⁸ *L.*, 1845, c. 11.

poor with the counties to the year 1900 there was little change of significance. The autocratic authority of the county judge from 1851 to 1860 and the tendency later developed to accord township and city officers greater freedom in the relief of the poor are the two most noteworthy facts.

The county judge had power to appoint the directors of poor relief, one or three, as he should see fit.¹ In case the ordinary revenues of the county proved insufficient for the expenses of the poor house he might, as a court, levy a tax not exceeding one mill on the dollar.² The reports of the directors were to be made to him.³ And he might let out the support of the poor with the use of the poor house and farm for a period not exceeding three years.⁴ One rather remarkable provision of the law was that creating a system of secret espionage in cases of special contract for the support of the poor. It was provided that the county judge should appoint some person to examine from time to time and report upon the manner in which the poor were kept and treated, without notice to the person contracting for their support.⁵

The early acts chartering cities sometimes provided for city infirmaries. In 1868 city councils of cities of the first class and township trustees were required to provide for the relief "of such poor persons * * as should not in their judgment be sent to the county poor house," for which a sum not exceeding two dollars per week, exclusive of medical attendance, might be allowed. But the Board of Supervisors had power to limit the amount of the relief furnished and refuse to continue such relief.⁶ Thus a limited authority was given townships and cities in the matter

¹ *Code*, 1851, § 828.

² *Ibid.*

³ *Ibid.*

⁴ *Ibid.*, §§ 847, 825.

⁵ *Ibid.*, § 826.

⁶ *L.*, 1868, c. 95.

of out-door relief, and from this time on there was a series of laws providing for slight modifications of the system.¹

The administration of the jails throughout the history of Iowa has been entirely in the hands of local officials. And there has been practically no agitation at any time for central control or inspection. The laws, if observed, however, have usually been rigid enough to secure a good administration. The earliest territorial law on the subject made it unlawful for sheriff or jailer to confine male and female prisoners, except husband and wife, together,² and in 1843 any person having the care of any jail allowing it to become foul or unclean, so as to endanger the health of any prisoner, was made liable to indictment and fine.³ Oppression of prisoners was most severely punished.⁴ These provisions have since been extended.

The Code of 1851 took a step forward. It provided for county inspection of jails, the inspection to be made by the county judge and the prosecuting attorney.⁵ The provision for a thorough examination of the jails was very full, and it might have seemed that here was the first step toward central supervision. But not so, for when the county judgeship was abolished in 1868⁶ his functions were transferred to the circuit judge, and the Code of 1873 expressly provided that the circuit judge and district attorney should be inspectors of jails.⁷ The circuit judge disappeared, but his disappearance was not taken advantage of to create a State prison board, and the system of 1851 is to-day continued substantially in the provision of the law which makes the clerk of the district court and the county attorney inspectors of the jails.⁸ These laws in many cases are practically dead

¹ *L.*, 1826, c. 26; 1878, c. 37; 1880, c. 133; 1888, c. 101; *Code*, 1897, § 733.

² *L.*, 1838-39, c. 139.

³ *Compiled Statutes*, 1843, c. 49.

⁴ *Idem*.

⁵ *Code*, 1851, § 3110.

⁶ *L.*, 1868, c. 86.

⁷ *Code*, 1873, § 429.

⁸ *Code*, 1897, § 5645.

letters, and seemingly in several periods the Legislature has been careless of providing any system of prison inspection whatever.

Thus to the year 1900 in both local charity administration, with its incident of the care of the insane, and in the management of jails, the control was left wholly to county or lesser hands. But in this year there appeared a most important deviation. The General Assembly enacted a law providing that all private and county institutions caring for insane persons should be under the supervision of the Board of Control of State Institutions.¹ This law imposes upon the board the duty of inspecting such institutions through its own members or persons appointed by it. This advance has been made not in response to any avowed intention to centralize charities generally in the care of the State, but simply because it was essential to give the board this power if its authority in regard to insane already in the State asylums was to be adequate. Nevertheless it has now an important influence on the question of centralization, an influence that will grow with the passage of time.

The private institutions and their administration can give us but slight pause, as they have played but a minor rôle in the charities of the State. On several occasions the State has given its aid, but usually with some reservation whereby it might supervise the expenditure of the sums granted. Its interference has hardly gone any farther than this, however. The most conspicuous instances of State aid are those of a loan of \$5,000 to the Orphans' Home at Andrew, made in 1872,² to enable it to meet its indebtedness, and the frequent donations to the Benedict Home at Des Moines. The time for payment of the loan to the Orphans' Asylum was extended on several occasions,³ and finally the State

¹ *L.*, 1900, c. 144.

² *L.*, 1872, c. 159.

³ *L.*, 1882, c. 57 ; 1892, c. 76.

cancelled the debt because of the good done by the institution.¹ The donations to the Benedict Home for Fallen Women have been expended under the direction of the Executive Council, and have been so large that a strong argument has been made for direct participation of the State in its administration.

2. DEVELOPMENT OF THE ADMINISTRATION OF STATE INSTITUTIONS

The first State institution of a charitable, correctional or penal character to develop in Iowa was the penitentiary at Ft. Madison. Its early appearance was due to the grants made in the territorial days by the National Government, and its existence was presupposed in the criminal law of the time which, as now, distinguished felonies from other crimes by the severity of the punishment, all crimes punishable with death, imprisonment at hard labor or in the penitentiary falling in the category of felonies.² This institution was of necessity a creation of the State. It was in the grant of State aid to special classes of defectives that the first real step was taken in the assumption by the State of functions of relief that might have developed locally. In 1849 the General Assembly empowered the Auditor, upon certification of the State Superintendent of Public Instruction, to draw his warrant in favor of deaf, dumb and blind applicants for State aid in the sum of fifty dollars for each such applicant.³ No one beneficiary was allowed more than \$100 from the State treasury, and the total amount that might be drawn annually for such purpose was limited to \$500 for the education of the deaf and dumb and \$250 for the education of the blind.

This system of direct money grants was to endure but a

¹ *L.*, 1892, c. 113.

² *L.*, 1838-39, Act Jan. 4.

³ *L.*, 1849, c. 121.

brief season, however, for soon the institutions for defectives, the insane asylums, the correctional institutions and the institutions strictly charitable in nature began to make their appearance. In 1853 provision was made for an Asylum for the Blind to be established at Iowa City, which was then capital of the State,¹ an institution that was later removed to Vinton. An asylum for the deaf and dumb was established soon afterwards at Iowa City,² later being removed to Council Bluffs. In the Governor's message for 1852 special attention had been called to the need for asylums for the insane. It was stated that there were more than one hundred pauper insane in the State, one-half of whom were confined in the common jails, and "thus placed beyond even a reasonable expectation of recovery," and "the other moiety * * * roaming at large."³ In response to this evident need the first insane asylum was established at Mt. Pleasant in 1855.⁴ Gradually the insane population grew, until now the State has four asylums, the second asylum being established at Independence in 1868,⁵ the third at Clarinda in 1888,⁶ and the fourth, located at Cherokee, was first provided for in 1892.⁷

The same course of action was followed in the provision for correctional administration. In 1868 a reform school for both boys and girls was established.⁸ The tendency to separate the sexes was however soon manifest, and the several progressions to that end⁹ were finally concluded in 1880, when a separate girls' school was established.¹⁰

In 1872 an additional penitentiary was provided, to be established "at or near the stone quarries near Anamosa,

¹ *L.*, 1852-53, c. 26.

² *Gov. Mess.*, 1852, p. 6.

³ *L.*, 1868, c. 97.

⁴ 1892, c. 80.

⁵ See *L.*, 1872, c. 161; 1878, c. 105.

⁶ *L.*, 1854-55, c. 87.

⁷ *L.*, 1854-55, c. 134.

⁸ *L.*, 1888, c. 75.

⁹ *L.*, 1868, c. 59.

¹⁰ *L.*, 1880, c. 171.

Iowa.”¹ In 1876 an institution for the feeble-minded was founded by the State² and located at Glenwood. Throughout this period, that is from 1866 on, there were also provisions for industrial homes for the blind,³ homes for the orphans of soldiers and others,⁴ and the soldiers’ home.⁵

Several of these institutions received some support from other than State sources, but this did not deter the State from making full provision for their administration and retaining the administration within its own hands.

It will be observed that most of these institutions were established previous to 1870. Up to that time the propriety of their administration by officers or boards individual to each institution was little questioned. There were scathing criticisms, but those that went to the foundation of the system, urging a departure from the independent administration, were few and little regarded. Such changes as were made from 1838 to 1870 were chiefly in the particular administration of the individual institution. Each was viewed as a distinct entity. Each lived its own life, made its own report and settled its own accounts with the State, and the manner of administration and policy pursued by the several institutions were often widely variant in nature. There was no co-operation, and there was not expected to be any. And the lack of co-ordination was not challenged as a fault.

The prevalent type of administration was that by a Board of Trustees having from three to a dozen members, one of whom was generally a resident of the place where the institution was located. These trustees were as a rule chosen by the Legislature, though there were a number of cases in which they were appointed by the Governor independently or with consent of the Council, Census Board or Executive

¹ L., 1872, c. 101.

² L., 1876, c. 152.

³ L., 1870, c. 79; 1890, c. 53.

⁴ L., 1866, c. 92; 1868, c. 66; 1876, c. 94.

⁵ L., 1886, c. 58; c. 129.

Council. The responsibility for the management of an institution was vested in its own board, which usually had an extensive rule-making power, authority to appoint its officers and the heads of the institution (who generally appointed their own subordinates), discharge them, and fix their salaries, within the limits prescribed by law. The chief functions of the trustees were financial in nature. The direct administration was in most matters left to the executive head of the institution, be he superintendent, warden or principal. The trustees ordinarily appointed the financial officer of the institution. And on his requisitions, when approved by the superintendent, and sometimes one or more of the trustees, the funds appropriated by the Legislature were drawn, such requisitions in the usual case passing to the Auditor of State to be audited and allowed by him before a warrant was drawn on the Treasurer of State. A free hand was often left the boards of trustees in their systems of accounts. They were little restricted in their manner of purchasing supplies.¹ And save in the requirement for reports—which were usually biennial, in a few cases annual—for regular meetings and for periodical examination of the accounts and vouchers of institution treasurers, the boards were not held to many closely defined obligations.

But this is merely the composite of the systems, the common type of administration, as nearly as it may be described. There were many important exceptions. Particularly was this true of the penitentiary at Ft. Madison, over which there was almost unending controversy. Charges of corruption led to committees of investigation; criticism of

¹ In 1862, however, a special attempt was made to secure uniformity in the manner of contracting for and purchasing supplies. *L.*, 1862, c. 46. Similar efforts appear in subsequent laws, but they were without much success. There were frequent prohibitions against trustees having interest in institution contracts. For example, see *L.*, 1878, c. 144.

boards and officers to almost ceaseless experiments in administration.¹ The penitentiary started with a board of three directors chosen by the Legislature. They in turn chose a superintendent, under whom the construction of the penitentiary was carried on,² and also a warden, who held office at their pleasure. The system divided responsibility and was confusing.³ Misappropriation of funds and mismanagement were reputed and proved. In 1847 the penitentiary was placed under the control of an Agent, answerable to the General Assembly alone, with no provision for auditing his accounts.⁴ In 1851 a Board of Inspectors and warden appointed by the Governor, with the consent of the Senate, to hold office during the pleasure of the executive, but not for more than four years under one appointment, were given charge of the institution.⁵ Again in 1860 there was a revolutionary change. This time the warden was made the sole manager of the institution, under the direction of the Governor.⁶ But this recital does in no adequate manner reflect the full measure of variety and discontinuity of the penitentiary's early administration. A warden chosen at one time by a superior board,⁷ at another by the Governor and Council or Senate,⁸ at another by the General Assembly,⁹ having at one moment only a slight ministerial authority,¹⁰ at the next thrown into doubt as to whether he had any or

¹ In the issue of the *Iowa Weekly Republican* of February 8, 1860, the editor said. "These institutions are the bugbear, as they are the fertile theme of endless discussion. . . . The Penitentiary is doubtless in need of appropriations. If the representations are true concerning it, the convicts are simply tenants at will. They are not in so much danger of *breaking out* as *falling out* of their cells."

² *L.*, 1838-39, Act Jan. 25.

³ *L.*, 1840-41, c. 71, well illustrates this.

⁴ *L.*, 1846-47, c. 101. But see *L.*, 1848-49, c. 70.

⁵ *Code*, 1851, §§ 3120, 3121.

⁶ *L.*, 1860, c. 97.

⁷ *L.*, 1856-57, c. 76.

⁸ *L.*, 1840-41, c. 71.

⁹ *L.*, 1852-53, c. 17.

¹⁰ *L.*, 1838-39, Act Jan. 25.

all power,¹ then raised to assured discretionary authority—this was the course of one office.² The uncertainty pervaded every other. There was administration by the Legislature,³ administration by the Governor,⁴ administration by special boards, administration by the Census Board or Executive Council,⁵ and administration by private lessees.⁶

On the other hand the divergences from the common type in the administration of the charitable and correctional institutions were not many. Perhaps the most conspicuous was that in the government of the first insane asylum. It was provided that a majority of the trustees should reside in the county where the institution was established.⁷ This was changed later.⁸ The Governor, Superintendent of Public Instruction and Secretary were made members of the first boards of the Blind Asylum⁹ and Institution for the Deaf and Dumb,¹⁰ but within a few years were excluded. Otherwise the differences were of minor significance.

Such was in general the particular administration of these institutions to the year 1870, and, in large measure, to 1898. There were indeed gradually developed some external checks which, if fully employed, might have secured much

¹ *Compiled Statutes*, 1843, c. 9.

² 1860, c. 97.

³ *L.*, 1845; *Joint Res.*, 13; *L.*, 1845-46, c. 20.

⁴ *L.*, 1851, c. 28; 1851, *Joint Res.*, 20; 1872, *Joint Res.*, 23.

⁵ *L.*, 1868, c. 104; 1874, c. 35; 1878, c. 110; 1878, c. 186; 1880, c. 149.

⁶ *L.*, 1845-46, c. 20. One ill-considered law for leasing the penitentiary provided for no report whatever. The governor commenting upon it said: "In the absence of information from the proper source, I am only able to state that during the past year the number of convicts has varied from six to two, the latter being the number at present in confinement. . . At present there is no discipline whatever, the convicts are more frequently employed without than within the walls of the Penitentiary, and can easily make their escape when disposed to do so." *H. J.*; 1846-47, p. 20.

⁷ *L.*, 1858, c. 141.

⁸ *L.*, 1860, c. 161.

⁹ *L.*, 1852-53, c. 26.

¹⁰ *L.*, 1854-55, c. 87.

harmony of policy and some central control. But they were made little use of. Passing over the authority of the Secretary of State, the Governor, or the Executive Council to approve the official bonds of the officers of the various institutions, and the detailed duties often required, especially of the Governor, in the auditing of accounts and checking of excessive expenditures—powers that, vigorously exercised, would tend to shape the administration—we may note two that stand out with unusual prominence. The first was the power of the Governor to supervise the penitentiaries. Monthly reports were to be made to him by the wardens, and the statute in very careful terms, so hedged about as to insure if possible their punctilious observance, required the Governor in person, or through his authorized agent, to make quarterly investigations of the penitentiaries, and he was given some minor powers of direct administration. The Governor perhaps made as full use of this authority as was compatible with his other duties, certainly a much greater use than he did of the power early given him to appoint commissioners of accounts to examine annually the executive offices of the State and, by intendment, the institutions.¹ But he did not make such a use that legislative interference was not often called for, investigating committees necessary, and changes in administration deemed essential. The second noteworthy power, or group of powers, was that bestowed upon the Executive Council, or Census Board, as it was earlier called. Given the authority in 1866 to approve the requisitions of the Orphans' Home, and in 1868 those of the warden of the penitentiary at Ft. Madison, its power was gradually extended in several directions. Contracts for convict labor were usually subject to its approval. The few special appropriations for aid to private charities were expended as it might direct. In the

¹ L., 1858, c. 160, and see *Report of Rankin Investigating Committee*, p. 65.

provisions for the management of the new State penitentiary at Anamosa the warden was within a few years after its establishment placed under the direction of the Executive Council in the construction of buildings, purchase of materials and employment of workmen,¹ and the Council was given a power, indefinite in terms, but a power for that very reason capable of a liberal application, to separate prisoners according to age or character. But these capacities were little improved, except as they bore upon the financial conditions. For the Executive Council was, and has ever been, loth to consider itself other than a financial or business board, and has almost never gone beyond its auditing, accounting, examining, assessing and equalizing functions.

The last half of the decade from 1860 to 1870 saw an increased activity in the affairs of the institutions. An unusual number of new institutions was added, and the public attention was arrested by the spirit of extension. The expense account commenced to grow until soon it consumed more than half of the appropriations. And now began to appear that series of bills which for thirty years was to seek a reform in the institutional administration, evoking comment or recommendation in almost every gubernatorial message, all but achieving the reform on more than one occasion, and finally realizing its object only after a searching investigation.

It appears that the first bill for State supervision or control was introduced in 1870.² The plan proposed sought to do away with legislative junketing and provide for State inspection. The bill was introduced too late in the session to be carried.

In 1872 the first step was taken toward central adminis-

¹ *L.*, 1876, c. 137.

² *H. F.*, 302, 1870; F. I. Herriott, *Institutional Expenditures in the State Budgets of Iowa*, p. 73.

tration. A "Visiting Committee" for the insane asylums was established.¹ Its purpose was to protect the insane. The committee was composed of three members appointed and removed by the Governor. They were empowered to visit the asylums at discretion, though at least one member must visit the asylums every month. They were to ascertain "whether any inmates are improperly detained at the hospital or unjustly placed there, and whether the inmates are humanely and kindly treated, with full power to correct any abuses found to exist." They might discharge any attendant or employee found guilty of a misdemeanor meriting such discharge. The measure was resented by many having to do with the asylums,² but it quickly justified its existence, and though the committee brought to light little serious abuse, it was well understood that its authority was a latent safeguard to the interests of the insane, and it remained in high public favor up to the very hour of its supersession by the Board of Control. For a short time the extension of the committee's authority to include that of a Board of Charities was mooted, the committee with some diffidence advancing the suggestion³ and the Governor heartily seconding it.⁴ The Governor at this time suggested an advance that has been almost lost sight of since. He recommended that the committee should include in the scope of its duties the examination and suggestion of improvements in the jails and poor houses of the county. The advocates of centralization were now in full cry. In 1876 two bills providing for an Advisory Board were consolidated, and passed the Senate by a strong majority⁵ but failed in the House.

¹ *L.*, 1872, c. 183.

² *Gov. Mess.*, 1874, p. 30.

³ *Report of the Visiting Committee*, 1875, pp. 7, 8.

⁴ *Gov. Mess.*, 1876, p. 24.

⁵ *S. J.*, 1876, p. 76.

Hardly a session of the Legislature from now on to 1898, when the act creating the Board of Control was passed, ended without its bill for a central board. In 1878 a bill to create a board of three managers to have charge of all the institutions except the university, the reform schools and the penitentiaries came within the narrowest margin of success. It had passed the House, a majority of the members of the Senate were in favor of it, and only by the sharpest parliamentary practice was it defeated. But most of the plans received much less favor. They varied greatly in nature, some providing for boards with the most meagre advisory capacity, some for boards with authority drawn on even bolder lines than is that of the Board of Control. Some contained novel features, such as a provision making the board in addition a board of pardons, or a commission in lunacy, or a provision for the extension of supervision over all the State offices as well as the institutions. One called for central supervision of city and county jails.¹ The views of the Governors differed quite as radically as did those of legislators.² But the cases were isolated where no form of central supervision was approved.³ Almost all interested believed that at least an advisory board for a part of the institutions was called for. Many would have gone much farther.

At last in 1897 the General Assembly, spurred to definitive action by the persistent rumor of frauds, money misapplied, and favoritism shown in the purchase of supplies

¹ For these various bills see, for 1882, *H. Fs.*, 181, 193; 1884, *H. Fs.*, 128, 307; 1886, *H. Fs.*, 22, 35, 128, 177; 1888, *S. F.*, 68; 1890, *S. Fs.*, 77, 397; 1892, *S. F.*, 18; 1894, *S. F.*, 283.

² *Gov. Mess.*, 1878, p. 20; 1880, p. 35; 1882, p. 42; 1884, pp. 37, 43; 1886, pp. 7, 8; 1892, pp. 5, 8; 1894, pp. 5, 7; 1896, pp. 4, 5; 1898, pp. 24, 25. And see in connection, *Governor's Inaugurals*, 1878, p. 14; 1882, pp. 11, 12.

³ *Gov. Mess.*, 1896, 4, 5, opposed central supervision, except financial examination by the Executive Council.

or in the deposits in banks, appointed a joint committee of the House and Senate to examine thoroughly the several institutions and report on a measure for change in administration. Their report was taken up by the session of 1898, and the result of its action thereon was the present Board of Control. Just previous to this report and the resultant law the Code of 1897 had gone into effect. It contained a provision looking toward more systematic administration that was somewhat lost to view in the interest attending the new law. Under the code the Executive Council were to devise a system of book-keeping or accounts for all the State institutions, and to make annual expert examinations of their accounts and financial transactions.¹ These powers, as well as those of the Governor with respect to the penitentiaries, were transferred to the Board of Control.

The report of the Healy Investigating Committee of 1897 is the one document of prime importance in the history of the State charities and corrections. It constitutes a cogent and severe arraignment of institutional administrative independence. Faults and blemishes it found on almost every hand. Lack of uniform method in the purchasing of supplies for subsistence or construction purposes; the consumption of different grades of supplies in hospitals treating the same kind of patients; the intermingling of different funds in violation of law; the non-observance of statutory limitations in expenditures for specific purposes; total failure in some places to audit bills, or auditing after the bills were paid; the payment of different salaries for the same services by institutions of the same character;² these were among its general criticisms. In some cases the report showed that though the law required orders on the treasurer of an institution to be signed by the president and secretary, the president had been accustomed to sign such orders in blank

¹ *Code*, 1897, §§ 158-163.

² *Healy Report*, p. 67.

and leave them with the secretary to be filled out and signed by him when the occasion required.¹ It advised the Legislature that notwithstanding express prohibitions appropriations were very generally disbursed from the State treasury weeks and months before actually needed and deposited in local banks, that an institution was very generally considered the lawful prey of the locality in which it was situated, and the bulk of the supplies bought from local merchants.² It noted a feeling of hostility between institutions and a feeling of opposition toward them on the part of public and Legislature, induced by the sentiment that institutions were the vehicles of special interests, and not unselfishly representative of a beneficent purpose of government.³ The facts were incontrovertible. The demand for reform was imperative. This the investigating committee appreciated fully, and it said, "If we thought the Legislature competent to remedy the defects, abuses and evils presented in our report, by enactments applicable to each institution, there would be much merit in suggesting specific changes. Entertaining the opinion, however, that the major part of our criticisms refer to abuses inhering in the trustee system, a thorough measure of reform is the only remedy. We attempted with some care to prepare a list of statutory amendments, but on reflection it was ascertained that the greater number of such amendments can properly form a part of a measure creating a central or supervisory board. Many other of such amendments will not be required if such board is established. The disease is organic, and too deep-seated for the use of palliatives."⁴

But the step to the new order was not unattended by the controversy that has marked the advance with weariful slowness in other States. In fact the dispute of thirty years

¹ *Healy Report*, pp. 61, 62.

² *Ibid.*, pp. 14, 29.

³ *Ibid.*, p. 66.

⁴ *Ibid.*, p. 65.

was revamped. All that had been said before, pro or con, was repeated here again. By conferring upon the board executive power, it was said that its function as an advisory board would be impaired "in the same sense and to the same extent as an attorney would be injured in his professional career by requiring him to perform the work of a book-keeper." How could a board inspect and supervise itself? For it was declared with much apparent force that the managers of an institution are, in the eye of the law, the institution, and that many of the advantages of a State board, as such a board is commonly understood, are therefore lost if there is no intermediate authority between the managers and the legislators, the Governor and the people. The point of remuneration was dwelt upon at length. Under the Code of 1897 the members of most boards of trustees had been allowed four dollars *per diem* and traveling expenses, but they could not receive compensation for more than thirty days in each year. Those opposing the central salaried board contended that once a price was attached the office immediately became a prize, of political seductiveness. Three thousand dollars is a good wage for a decayed politician. And price and payment would keep out that class of men, an able class, willing to give their services to the charitable work of the State, but unwilling to have them estimated at a pittance. To this and like opposition, and to the claim that the power of the board should be a moral power solely, perhaps the strongest argument of those who favored the Board of Control was that of economy and business expediency and efficiency, in short of scientific adjustment.

It is acknowledged by those who oppose the doctrine or practice of gratuitous service that perhaps it occupies a stronghold when used in benevolent or semi-benevolent institutions. Hence it was with some difficulty that the

salaried office could be made to win support, but that was accomplished, and again by means of the argument of its superiority from a business point of view. The arguments that the motives that lead men to give their service without pay are not constant, therefore not reliable, that the public servant, serving without compensation, cannot be held to strict accountability, that gratuitous service is never a trained service,¹ were brought into play and victory was won for the Board of Control. The thought of the legislators of Iowa when they brought this strong and virile innovation into the administration of the institutions of the State was the thought of Walter Bagehot when he wrote: "A very high pay of prestige is almost always very dangerous. It causes the post to be desired by vain men, by lazy men, by men of rank, and when that post is one of real and technical business, and when therefore it requires much previous training, much continuous labor, and much patient and quick judgment, all such men are dangerous."² The members of the Board of Control qualified April 6, 1898, not assuming control of the institutions, however, until July 1, 1898.

II THE PRESENT ADMINISTRATION—THE BOARD OF CONTROL

The Board of Control of State Institutions is composed of three electors of the State, appointed by the Governor, with the consent of two-thirds of the Senate. Not more than two of the members may be of the same political party, and no two may reside at the time of their appointment in the same congressional district. The nominations of the Governor may not be considered by the Senate until referred to a committee of five, not more than three of

¹ Cf. H. C. Adams, *Science of Finance*, pp. 16, 18.

Lombard Street, p. 225.

whom may be of the same political party. The term of the office is, regularly, six years, but in order that the offices of all three members might not be terminable at the same time it was provided in the statute creating the board that the appointments, in the first instance, should be for two, four and six years respectively.

The power of removal was placed in the hands of the Governor and the Senate, the Governor being authorized, with the consent of the Senate, during a session of the General Assembly, to remove any member of the board for malfeasance or nonfeasance in office, or for any cause that would render him ineligible to appointment or incapable or unfit to discharge the duties of his office. A removal so made is final. When the Assembly is not in session the Governor may suspend any member so disqualified and appoint another to fill the vacancy, subject, however, to the action of the Senate when next in session.

The salary of the members of the board is \$3,000 per annum. Each member is required to take an oath and give an official bond in the sum of \$25,000, signed by sureties approved by the Governor. It is provided, by way of eliminating the political and corruptive tendencies of public office, that no member of the board may be eligible to any other lucrative office in the State during his term of service, or for one year thereafter, or to any position in any State institution during the term for which he was appointed, nor within one year after the expiration of his term. A precaution looking to similar ends is taken in the section relative to the prohibition of political influence or contribution. It is provided that any member or officer of the board or any officer or employee of a State institution subject to the board who, by solicitation or otherwise, exerts his influence, directly or indirectly, to induce other officers or employees of the State to adopt his political views or to

favor any particular person or candidate for office, or who in any manner contributes money or other thing of value to any person for election purposes, shall be removed from his office or position by the proper authorities.¹ Two years after the creation of the board a further law was framed, on the recommendation of its members, to entrench the board yet more firmly in its independence. It was provided then that the levying of political assessments upon employees of the board should be prohibited, and it was made a misdemeanor to demand or solicit from any officer or employee of any institution under the control of the board a contribution for election purposes, or for the payment of the expenses of any political committee or organization. The significance of this law is shown by the general report, that in 1901 the State central committee of the party in power levied a tax of four per cent. on the wages of all State house employees. In 1902 the tax was three per cent.² The integrity of the members is further assured by the provision that it shall be a crime for any one of them to accept a gift from a person or firm dealing with the institutions under its charge.

The chairman of the board for each biennial period is that member whose term of office expires first. The board is authorized to employ a secretary at a salary of two thousand dollars per annum, a stenographer, and such other assistants as it may need. It has an official seal, attesting therewith all commissions, orders or other papers issued by it. An itemized statement of the expenses of the board and its employees, properly certified, must be presented to the Governor for his written audit before payment is made. The salaries and expenses of the board are paid monthly by the Treasurer of State upon the warrant of the Auditor.

¹ L., 1898, c. 118, § 35.

² *The Register and Leader*, of Des Moines, Ia., Sept. 7, 1902.

Turning now more specifically to the relation of the board to the Legislature, the following matters arrest our attention: The board is required to prepare biennial estimates of the appropriations necessary to be made for the support of the several institutions, and for the extraordinary and special expenditures for buildings, betterments or other improvements. Suggestions for the benefit of the several institutions or for the dependent, defective or criminal classes of the State are to be included in such reports. And, on request, the board or its committee must attend meetings of the legislative committees, to which such questions may be submitted, and furnish information that may be demanded. The board is also subject to the examination of the joint legislative committee on retrenchment and reform. It owes a duty of reporting to the Governor. Any wrong or abuse alleged to exist in the State institutions under its control it is required to investigate and report to him.

It would require many pages to set forth in comprehensive detail the varied relations and powers of the board. The purpose of this study will be as successfully served if they are noted in broad capitulation. With respect to the branches of the administration under its supervision the powers of the board are three-fold. First, it has the general control, including policy, finance and every element of administration, of the State charitable, penal and reformatory institutions. Second, it exercises a financial surveillance over the affairs of the State institutions of advanced or higher education. In the third place, subsequent to its creation, it was given the authority mentioned in the historical outline to inspect, and indeed administer to a large degree, county or private institutions in which the insane are kept. The powers over the educational institutions and the local institutions for the insane are incidental and sup-

plementary. As the *raison d'être* of the board was the unsatisfactory administration of the State charities and corrections, its chief functions of a necessity have to do with them.

The institutions under the control of the board are the four State hospitals for the insane, the college for the blind, the school for the deaf, the institution for the feeble-minded, the soldiers' home, the industrial school for boys, the industrial school for girls, the industrial reformatory for females¹ and the two State penitentiaries.

The key to the strength of any administrative officer or body is his or its authority over subordinates. Such authority is the imperative condition of effective control. And here there is nothing wanting in the power of the board, for while the executive head of each of the above institutions has the power to appoint and remove subordinates, the executive head himself is appointed and removed by the board. To make the board responsible for the whole, but at the same time to make the obligations and powers of each executive chief stand out in bold outline in his particular sphere, these are the principles of this system. And so far has this purpose to centralize authority, first in the board, secondly in the heads of the various institutions, been carried that it is made a misdemeanor for any member of the board to suggest the appointment of any person under a chief executive officer. "Thus we have in effect civil service," remarks a member, "for every subordinate officer and employee of the institution knows that he holds his place at the will of the chief executive of such institution. Attention to duty, ability and efficiency in service are the only tests. No appointments are influenced by any political considerations whatever."²

¹ Created by L., 1900, c. 102.

² *Conference of Charities and Corrections*, 1900, p. 173.

The powers of direct administration possessed by the board with respect to these institutions are in general perhaps even larger than might be expected in a central correlating and directing authority. The board has power to investigate the management and financial condition of the institutions. It inquires into questions of insanity of patients, determines when insane persons may be admitted at the charge of the State, and divides the State into penitentiary and hospital districts. It compels the providing of fire protection and fire escapes. It takes pains that all employees handling money or property of the State shall give bond. It is empowered to require certain officers to take inventories annually of all the State's movable property, and quarterly of all supplies and stores, and it annually fixes the salaries of all officers and employees of the institutions except the chief executive officers. It has power to investigate the question of insanity and condition of any person committed to any State hospital, and may discharge any person so committed, on securing the recommendation of the superintendent of the institution. The board may transfer patients or convicts from one institution to another. It has power to arrange for the care or transportation of insane patients whose residences are unknown, and in cases of questionable commitment may investigate. And in 1900 the board was given power to direct the purchase of materials or any articles of supply by one institution from another, the value to be fixed by the board at the reasonable market price, and the payments therefor as between institutions to be made in the manner provided for the payments for supplies. Two of the most prominent powers of direct administration are those existing in connection with the board's duty to provide a system of financial accounts and book-keeping, and its authority to purchase supplies for the State institutions. Sporadic attempts had been made to

accomplish both of these administrative betterments in some measure previous to the creation of the Board of Control, but not until its creation was success attained.

The scheme of book-keeping, of accounts and of the purchase of and payment for supplies as adopted in pursuance of the mandate of the statute is, at first blush, complicated. And yet it is in reality simple, so far as control necessarily involving many progressions and checks can be simple. Each step has the virtue of clear demarcation. Conflict, overlapping, with the attendant dangers of shifted responsibility and misplaced censure, are wholly eliminated.

We may note in some detail the methods used in the purchase of supplies, for they illustrate very clearly the pains that have been taken not only on this but on every hand to secure expert administration. The aim of the system is to secure lower prices through purchase of gross quantities and through competitive bids. Once a year the superintendent of each institution is required to make estimates, in duplicate, for coal, flour and canned goods; once every three months for all other supplies. These estimates are forwarded to the office of the board, there to be subjected first to the scrutiny of the estimate clerk. Errors in computation, classification, footings—all these he corrects. To each estimate he then attaches a memorandum of his alterations, and makes note of matter proper for the board's consideration. Now the estimates are passed upon by the board, reduced or increased, or in any way changed as to estimated prices. The board having approved the corrected papers, one copy is returned to the institution and one filed in the office of the board. Considerable margin is allowed for changes at this, the plastic, stage of these little quasi-budgets of the institutions. Estimates noticeably defective as to substance, or defective in the important formal requirements of signature and certification, are speedily returned for cor-

rection. And supplemental estimates and re-estimates are allowed where conditions suggest their value.

A trick has been appropriated from the ingenious device of card catalogues in the choice of colored inks for estimates. These inks differ according to the funds out of which the estimates are to be paid, blanks for articles to be paid for out of the support fund being printed in black ink, those to be paid for out of special appropriations in red ink, and so on.

The next step is the making up of the schedules. After the 10th of January, April, July and October, when all the estimates are in the hands of the board, separate schedules of all articles estimated for are made up for each institution. The schedules are sent with printed specifications to all bidders and wholesale dealers in the goods required in Iowa, and to many in the large cities of neighboring States. Samples must accompany the bids in many instances. When the bids and samples are ready the quarterly meeting of the superintendents of the institutions is held. The superintendents inspect bids and samples, leaving a written note with the board indicating their preference. The board then, with the assistance of a single superintendent, makes the awards. Then follow the shipping and checking in, both conducted according to carefully prescribed and enforced rules of procedure. And when the goods are checked in the stewards make duplicate vouchers therefor, which are sent to the sellers for their verification.

Next in order is the payment of the bills. In this process vouchers for supplies pass through the same mill as the other vouchers and the pay rolls. The pay roll and all vouchers are certified to the board at the end of each month, and are immediately placed in the hands of the estimate clerk. He compares the pay roll with the schedule of salaries and indicates the errors therein, and he examines and makes memoranda as to the addition and computation in

the vouchers. They then come before the board for action, accompanied by a memorandum in red ink, showing the balances in the several funds, out of which these vouchers must be paid, the object being to keep ever before the board the fact as to whether they have balances to the credit of the institutions in those particular funds. The examination that follows by the board is carefully made, and it is the practice for it to return the pay roll or any voucher for correction, and whenever a successful bidder has failed to furnish the article contracted for, or has furnished an inferior article, it directs the superintendent of the institution concerned to return the goods or to make a proper rebate on the voucher. Upon approval of the pay roll and vouchers by the board the secretary makes triplicate certificates, one to be sent to the State Auditor, one to the State Treasurer, and one to be retained in the office of the board. All bills are certified in the names of the parties to whom they are due, and on receipt of these certificates and warrant from the State Auditor, the State Treasurer mails a check to each of such certified persons. On the other hand the full amount of the pay roll in each case is certified to be paid to the superintendent, who disburses it to the several employees.

A recent chairman of the board in reviewing this procedure observes with emphasis that the system is such that the board does not handle a dollar, and that the superintendent of each institution handles no money except the pay roll, which he receives for disbursement among the employees, and what may be derived from the sales of the product of farms or institution shops, which must be reported monthly and sent in to the State Treasurer. The system has met with the degree of success that leads him to assert: "After very many examinations in different States of the system of book-keeping and purchasing supplies, I have found none where they are in all respects like that we

pursue in our own State, and none equal to our system." The system has remained unaltered.¹

Emphasis is laid by the law upon careful statistical reports, as upon technique throughout. The board is called upon to furnish each institution with books and blanks for statistical records and returns. Duplicates are kept in the office of the board, upon which entries are made when the returns come in. Provisions conducing to the dissemination of information and an enlightened policy are prominent features of the law. It is provided that the board shall gather and present information embodying the experience of soldiers' homes, charitable, reformatory and penal institutions in this and other countries, also regarding the most successful methods of caring for the insane, delinquent and criminal classes. And the duty is enjoined upon it of encouraging scientific investigation of the treatment of epilepsy by the medical staff of the insane hospitals and the institution for the feeble-minded. It is required to publish from time to time bulletins and reports of the scientific and clinical work in such institutions. The publication issued by the board quarterly, called *The Bulletin*, bespeaks the great activity in the educational work of the board. In it, besides leading articles, usually scientific papers read before the quarterly conferences of the superintendents of the several institutions with the board, are published the reports of the meetings of these conferences. These quarterly meetings are prescribed by the law. They have been the source of much benefit. Even a superficial examination of the reports of the meetings will reveal the alertness of the superintendents, the genuine interest of those participating, and how nearly these conferences have approached the true parliament of administrative education. This work is all supplemented by the visitatorial power and duty of the board.

¹ *Report of the Board of Control, 1901, p. 7.*

It must visit all institutions once every six months, and the hospitals must be visited by one of its own members or its secretary every month. In fact the visits actually made are more numerous than the law demands. Frequently all three members of the board make the visits required. The visits usually cover two days, sometimes more.¹

The supervision by the board of the financial affairs of the State institutions of advanced or higher education is scarcely of a piece with the general intent of its existence. It is required to investigate thoroughly the reports and transactions of regents of the State University, the trustees of the State Normal School, and the trustees of the State College of Agriculture and Mechanic Arts, and the books and records of such institutions, for the purpose of ascertaining:

“1. Whether the persons holding positions have faithfully accounted for all moneys of the State which have been drawn from the State treasury or have come into their hands or otherwise.

“2. If appropriations have been drawn from the State treasury in accordance with the law and so expended.

“3. Whether such persons have drawn money for services, *per diem*, mileage, or expenses, or otherwise, not authorized by law, or have authorized expenditures without authority of law.”

The third branch of the board's authority is the most instructive, instructive because it comes as a second thought in this system of administration, and because it indicates the line of evolution. It seems to declare that the concomitant of centralized administration of the State institutions is to be the central control of local institutions of generic type. At every session of the Legislature since the creation of the board a step has been taken in this direction,

¹ *Report of the Board of Control, 1901, pp. 113-115.*

the most recent of this class of powers, that of inspecting and supervising societies for the care of friendless children, having been added in 1902. The power to supervise the county and private institutions in which insane persons are kept has many elements of strength.

The board is required to visit and inspect all such institutions at least twice annually by one or more of its members or by its duly appointed representative. The first inspections were made by members of the board personally in order that they might know of the conditions prevailing in these institutions, and so judge of the merits of the reports of subsequent inspections. Superintendents and assistant physicians of the insane hospitals were also appointed to make these inspections.

The board has power to make rules and regulations touching the care and treatment of insane in such institutions. The rules adopted have been aimed to safeguard their treatment; they have required the establishment of night watches at institutions when necessary, the proper number of attendants, fire escapes, medical aid and so forth. In case any institution fails to comply with these rules the board is authorized to remove all insane persons kept therein at public expense to some other institution, State, county or private, at the expense of the county which sent the patient to the institution in question. But the board also has a discretionary power of removal even in case of compliance with the rules. There have been very few cases of non-compliance, still the removals have been numerous. During the first year in which the law was in operation forty-seven patients were removed from county and private institutions to State hospitals, and seventy-two from State hospitals to county and private institutions.¹ Complementary to this power is the authority possessed by the board when it be-

¹ *Report of the Board of Control, 1901, p. 55.*

lieves any person in any such institution sane or illegally restrained of liberty to institute proceedings for his discharge.

The question now naturally arises, what have been the successes of this rather ambitious plan of reform? The answer must be that, on the whole, they have been remarkable. They are the most obvious in the financial results. The Legislature had reduced the expense of the support of the inmates in the aggregate by \$100,000 before the board took charge of the institutions, and yet in the first year of operation, of the support funds allowed over \$119,000 remained unexpended. And it appears that notwithstanding this there were many improvements in new machinery, that the food and clothing were better than they had been under the old system. It is said, too, that the personnel of the employees was improved, but there have not been wanting some assertions that this is a mistaken statement, that for a brief time the board took a step backward in this respect, the result of too ambitious reforms.

The State Treasurer in his report for 1899 computed the decrease in cost of operating the institutions under the control of the board for the first year, as compared with the previous year, at \$379,490.73, or 26.9 per cent.¹ The expenses from the support fund for the biennial period ending June 30th, 1901, were but little more than those for the period ending June 30, 1899,² thus giving an earnest of continued economy. A comparison of the expenditures for the Iowa institutions with those for other States under the decentralized methods of management is also favorable to the Iowa plan.³

¹ *Treasurer's Report*, 1899, p. lxii.

² In the period 1897-1899, they were \$2,114,619.75; 1899-1901, they were \$2,167,906.07.

³ For the year ending June 30, 1899, the per capita expenditures for the Iowa institutions were \$145.50 as against \$175.68 in New York; \$183.00 in Minne-

The other results are less capable of statistical demonstration. The service resulting has been declared by some better than that of any State having a formal civil service commission. The care of the inmates, and especially of the insane, has improved. The creation of the office of State architect has been a great benefit. This officer receives the same salary as the members of the board, and gives all his time to the preparation of plans for additions to or improvements in the institutions and the supervision of the execution of such plans. A most conspicuous result is seen in the steps taken toward the improvement of local institutions where the insane are kept.¹ The board's investigations revealed that in them troublesome inmates were locked up and treated as criminals, and that the food and wearing apparel was in many cases very poor. It was shown that little or no attention had been paid to the cleanliness and personal habits of the inmates. In some institutions as many as six or more inmates were bathed in the same water; in some they were seldom or never bathed. In numerous cases the rooms in which inmates were kept and the furniture were filthy beyond description, walls and ceilings broken, and vermin found in furniture, beds, floors, walls and ceilings. There were cases where men had unobstructed access to the rooms of insane women. These bad conditions were largely the result of the policy of awarding contracts for keeping the poor and insane to the lowest bidder, or to persons with ability to care for poor farms without regard to their qualifications for caring for the insane. The board

sota, and \$187.40 in Michigan for the years ending respectively June 30, July 31 and September 30, all in the year 1900. Moreover, the variation in the per capita cost of different institutions was much wider in these States than in Iowa under the Board of Control.

¹ One of the most striking results is seen in the greater reliability of the information secured under the centralized system. For example, see *Report of Board of Control*, 1901, p. 57.

has closed those institutions which were not taking reasonably good care of the insane, and has greatly improved the condition and management of others. It has discouraged the counties from attempting to care for a small number of insane, though according to the late reports there are still thirty-one counties caring for insane fewer in number than twelve, and in nearly all these counties the insane are kept with and treated the same as the poor, though the law provides for separate care and different treatment.

And lastly the high personnel of the Board of Control is to be noted. The charitable and correctional interests of the State have drawn to their service men most highly esteemed in the community and State of which they are citizens, men qualified to see eye to eye and to maintain a safe equilibrium between the social and financial demands of their charge. Thus the contention that such a system would draw to its service the mere political camp follower has been confuted. Indeed, one cannot examine the work of this board without profound admiration for its singleness of vision, its unqualified aim to do the greatest good both for the individual inmate and the general State interest. Seldom or never has an official department of the State of Iowa found it so easy to secure from the Legislature the laws that it recommends or the appropriations that it asks. This is the best evidence of the general satisfaction with the system and the thorough confidence in those to whose care it has been confided. This implicit faith has been such indeed that it has induced legislation which in the future may in less worthy hands, should the board ever know such, prove very dangerous. In its first report the board asked that it be given authority to expend unused balances for any purpose deemed necessary for the several institutions.¹ This

¹ *Report of the Board of Control, 1899, p. 52.*

authority was granted.¹ It means that the unrestricted control of the balances has been transferred from legislative to administrative hands. And it must be admitted that this is a rather startling departure from the principle of democratic control of public expenditures.²

To the inquiry as to the future of the administration of charities and corrections it may be said that centralization might be rationally extended in two directions. Indeed, such extensions may prove imperative. In the first place the care of the unfortunate or delinquent may be made less a local and more a State charge. This is especially urged with respect to the care of the insane. The Board of Control has recommended that the support of this class be entirely taken over by the State.³ The other direction, and perhaps the more important one, is that of the central supervision of city and county jails and the local poor relief. It is remarkable how little discussion there has been of this question in the history of Iowa. The jails have been left under the wing of the district courts and the local judicial functionaries in a very haphazard way, and no one has asked whether the inspections have been made as required or worried himself about the care of prisoners. And yet it is doubtless true that an investigation would reveal conditions similar to those shown by the Board of Control to have existed in the local institutions where the insane are kept, and, incidentally, in the poor houses generally. The county care of dependents has been discussed, but as yet little or nothing has been done to better it.⁴ All that the Board of Control has shown with respect to the county care of the

¹ L., 1900, c. 150.

² Cf. Herriott, *op. cit.*, p. 55.

³ *Report of Board of Control*, 1901, p. 51.

⁴ See W. R. Patterson, *County Care of Dependents in Iowa*, in *Bulletin of Iowa State Institutions*, vol. iii, no. 4, p. 518.

insane may be repeated with respect to county care of the poor. In addition there are to be found among others such evils as the mingling of insane and defectives with the poor, of children in arms or of tender years with adults, the greatest disparity in systems of book-keeping, the elevation of graduates of the road supervisorship through mere political "pull" to the position of poor-master, and small salaries and inefficient service. The Board of Control has not recommended that it be given power to supervise the poor houses or jails. It is probable that its present great power makes it diffident about asking further authority. It would indeed be a mistake to give the board such power without at the same time making a very liberal appropriation and adding largely to its force of inspectors. Already it has declared its inability, because of other duties, to make further personal inspection of the local institutions where the insane are kept, and this work is now done by its agents. It has been recommended that a State board of charities be created, having supervision of the county care of dependents,¹ and there would be some advantages in a distinct board having such powers, and perhaps having powers to inspect the jails. But inasmuch as the experience of the Board of Control must prove of immeasurable advantage in such a service, there seems a stronger argument for adding to the membership of the board and its assistants as may be necessary, and making it the one central administrative authority in all these matters.

¹ Patterson, *loc. cit.*, p. 527.

CHAPTER IV

PUBLIC HEALTH AND SAFETY

I HISTORICAL SKETCH OF THE ADMINISTRATION OF PUBLIC HEALTH AND SAFETY

ONLY within recent years has the health administration been considered in Iowa as much more than an accidental phase of government. The death rate of Iowa has usually been low. An inland State, it has been free from those epidemics of foreign importation which occasionally have ravaged the coast States, epidemics that have caused the insistence upon strict quarantine and preventive measures. The advancement of the health administration in a number of the Eastern States has often been given its primary impetus by the yellow fever, the Asiatic cholera or other scourge from abroad, until the State afflicted has made a virtue of necessity and brought its health administration to a high degree of perfection. There has been no such spur to the Iowa law-makers. Moreover, the lack of large cities and the diffusion of the population over extensive areas have tended to conceal or moderate the appearances of disease even when of serious extent, disease that might in congested districts, because of its more evident destruction, have awakened public clamor for reform. Add to this the general conviction, founded as it is in fact, that the health of the State is unusually good, and it needs little further to explain the slowness with which the machinery of health administration has developed.

From the years of its territorial existence until 1866 the health administration of Iowa was purely an incidental function. Little stress was laid upon it in the laws; less attention given to it in practice. The evidence is slight, but it can be readily deduced that the conditions during this period were indeed salubrious. Quite as naturally as preambles appear before constitutions, or enacting clauses before the substance of laws, did the formula of congratulation upon the good health of the State appear as the opening sentence in the Governor's message of this time. "Since the termination of the last meeting of the Legislative Assembly, it has pleased the Almighty Power, in whose hands we are, to vouchsafe to the people of this territory as great a degree of exemption from disease as has fallen to the lot of any portion of our extensive country,"¹ thus began almost every message of the territorial and the early State period. There are one or two references to disease,² but never indications that such disease had taken on calamitous proportions. The advertisements of immigration agencies of the time, and the pamphlets prepared by various communities to induce settlement, painted in glowing colors the great healthfulness of the climate. Though the utterances of interested parties, they seem to have been not without a considerable basis in truth. It was not against natural causes of death that the pioneer sought to protect himself by legislative enactment. He would leave that to Providence and his own good care. The frontier desperado, the Indian and the wolf, these were the subjects of his particular solicitude and his measures for safety.³ Public sanitation would have seemed a pretty and useless plaything in such circumstances, and he gave it almost no thought.

¹ *Gov. Mess.*, Dec. 6, 1843.

² *Gov. Mess.*, 1850, *H. J.*, 1850-51, p. 8.

³ See *L.*, 1839-40, c. 27.

Nowhere is the incidental character of the health administration better illustrated than in the charters of the early towns and cities. On January 23, 1839, "the President and Trustees of the Town of Bloomington" were incorporated, the first municipal charter under the separate territorial organization.¹ The subject of health was not mentioned in it, the nearest approach thereto being the power granted *the electors* to remove nuisances or provide for their removal. Two days afterward, however, Davenport was incorporated,² with somewhat different and wider powers. In this case the Mayor, recorder and trustees, or a majority of them, were given power to make by-laws and ordinances "for the promotion of morality, as well as for the good regulation, interest, safety, health, cleanliness and conveniences of said town and the citizens thereof." And it was further provided that "the said corporation shall have power to regulate and improve all streets, alleys, sidewalks, drains or sewers, to sink and keep in repair public wells, remove nuisances."

Substantially all of the charters from now on to 1850 followed the one form or the other, either giving the electors of the city a general power to abate or provide for the abatement of nuisances,³ or lodging a power, general or specific, with the city officers and trustees.⁴ In both cases, however, the function was patently incidental and little emphasized. By 1850 the first form was practically abandoned, and from then on the powers were placed in the

¹ *L.*, 1838-39, Jan. 23.

² *Ibid.*, Jan. 25.

³ For charters illustrative, see Farmington, *L.*, 1840-41, c. 44; Iowa City, *L.*, 1840-41, c. 39; Mt. Pleasant, *L.*, 1841-42, c. 19.

⁴ For charters illustrative, see Ft. Madison, *L.*, 1841-42, c. 89; Keosauqua, *L.*, 1841-42, c. 122; Farmington, *L.*, 1846-47, c. 79; Fairfield, *L.*, 1846-47, c. 38. The charter of Burlington, *L.*, 1845, c. 54, went into unusual detail in respect to the health administration; same in Dubuque, *L.*, 1845-46, c. 123.

hands of the city councils. In the session of the General Assembly of 1850-51 some thirteen towns and cities were granted charters, and in no instance were the powers in question confided to the electors.

The first provision for the self-incorporation of towns and cities was made by the Code of 1851, and this also followed the second form. It provided that the charters of self-incorporation might give power to establish such ordinances as were necessary for good regulation, safety, health and cleanliness, to provide for drains, sewers, public wells, wharves and landing places, and "to make any other ordinary, suitable and proper police regulations."¹

The laws begin to place a little further emphasis upon the health administration in 1853, but it is still treated as of secondary importance. About this time we find special provision for health officers, indicating that it is now becoming a distinctive function. At this time Council Bluffs was granted a charter,² in which the council was empowered to appoint, in such manner as it should determine, street commissioners, a clerk of the market, health officers and such other officers as it might deem advisable. It was also given authority to prescribe their duties, their powers and qualifications, and might provide for the election of any such officers by the citizens. But these provisions were not of great significance, for a number of charters were subsequently allowed containing no such provisions.³

The Constitution of 1857 put an end to the special incorporation of cities and towns.⁴ It provided they should in all cases be incorporated under general laws. In pursuance of this the Legislature in 1858 passed a law pro-

¹ *Code*, 1851, § 665.

² *L.*, 1851-53, c. 64.

³ Notably that of Des Moines, *L.*, 1856-57, c. 185.

⁴ *Cons.*, 1857, Art. 4, § 30.

viding for general incorporation, by which cities were to be divided into two classes, according to population.¹ All places having a population of 15,000 or over were to be deemed cities of the first class, all having a population of 2,000 were cities of the second class, while the remaining incorporations were to be known as incorporated towns. And the law provided that councils of cities, but not towns, should have power to establish boards of health, with powers sufficient to secure the inhabitants of the city "from the evils, distresses and calamities of contagious, malignant and infectious diseases." Here is found for the first time the provision for a board of health and direct consideration of contagious diseases, but it is to be noted that the law is permissive merely, and that there is no enforceable obligation resting upon the city council to provide for such a board.

It was not until 1866 that the health administration was made a specific and certain, because an obligatory, function. In that year an act was passed constituting the Mayor and council of any incorporated town or city, or the trustees of any township not incorporated, a board of health.² The powers of such local boards were full, definite and described in considerable detail. They were given power to make rules and regulations respecting nuisances, sources of filth and causes of sickness, to remove and abate them, and to publish these regulations. More specifically, they might make regulations concerning the cleansing of streets, alleys and drains, concerning the communication with houses where there was any infectious or contagious disease. They might establish pest houses and hospitals and remove patients thereto. To carry out their work they were authorized to employ all assistants necessary, fix their compensation, and employ physicians in cases of poverty. They were empowered to levy a tax for the expenses so incurred, and

¹ L., 1858, c. 157.

² L., 1866, c. 107.

the sanction of their action was found in the provision that wilful violation of their regulations should be a misdemeanor, subject to fine or imprisonment.

Later laws have not much altered these provisions. In 1880 it was enacted that every local board of health should appoint a competent physician to the board, who should be the health officer of the city, town or village, such officer to hold his place at the pleasure of the board.¹ In 1882 cities under special charters, which hitherto had been neglected in the general health laws, received legislative attention, and a board of health somewhat different from that of the general incorporations was established.² It was provided that the Mayor and aldermen of each city under special charter should have full power to appoint a local board of health consisting of three or five members, but it was stipulated that a majority should be members of the city council, and that the Mayor should be a member and chairman *ex officio*. The powers of boards so constituted were, if anything, wider than those under the general law. For example, the board was given power, with consent of the city council, to prohibit by public proclamation the congregation of people in schools, churches and other public places in case of small-pox and other infectious diseases, also to forbid unvaccinated persons attending public assemblages.

The results of the establishment of local boards of health were not particularly obvious. In many cases things seemed to go much as they had before, in many the law was not observed. There was no general outbreak of disease, no impending disasters to quicken the popular interest, inspire the popular demand and so read the law into the life of the local administration. Things crept in the health administration. And it was not in wide-awake response to an

¹ L., 1882, c. 168.

² L., 1882, c. 168.

insistent summons that the next great step was taken, but, as before, sleepily and carelessly that it came about.

This next supreme move was the creation of the State Board of Health. The law for its establishment was passed in 1880.¹ Governor John H. Gear in his inaugural address of January 17, 1878, had made the first official mention of its possible establishment, but his recommendation did not call for a board of health as the institution is at present understood. He said that he had been requested repeatedly by the medical profession of the State to call the attention of the General Assembly to the necessity of establishing a State Board of Health, "whose duty it should be to pass upon the qualifications of practicing physicians, in order that the people may be protected from empiricism." But here his recommendation ended. His biennial message of 1880, however, pushed the matter a step farther. He now advised that the board should be created with the further powers of adopting measures for the protection of the health of the people generally and for the collection of vital statistics of the State. The suggestion, so extended, met with the favor of the Legislature, and this year the State Board of Health was created.

The powers thus conferred upon the nine appointive, unsalaried members who composed the State board were taken up with ardor and the expectation of great benefits to the State. The final reason for the creation of the board seemed to have been that of securing vital statistics, and it was on this feature that the greatest emphasis was laid in the first few years. Indeed, the second biennial report of the board, made in 1883, was the most voluminous report that had been attempted up to that time by any board or officer of the State. It contained the first full revelation of the working of the law for the registration of vital sta-

¹ L., 1880, c. 151.

tistics. The revelation was a disappointment. Immediately the returns were tabulated it was realized that they were almost valueless. The law required returns both from clerks and health officers in cities, towns and townships. In a total of 428 cities and towns reports had been received from but 72 clerks and 51 health officers, while of the corresponding officers of the 1,637 townships but 413 clerks and 82 health officers had reported.¹ After 1885 the attempt to tabulate and publish elaborate vital statistics was abandoned, and while a perfunctory compliance with the letter of the law was continued, and several attempts made by the Legislature to improve the system, nothing worthy of comment was achieved, and this feature of the board's power remained, what it is to-day, lumber on the statute books—a power that will be hardly worth its printing until it has been subjected to a strong revitalizing force.

The first ten years of the board's existence seem to have been consumed chiefly in making good its title to live. On many hands it met with the coldest indifference and the heaviest apathy, on others with open hostility. There were some legislators wholly opposed to all legislation upon sanitary matters who favored the discontinuance of the State Board of Health, and with it the disbanding of the local boards.² Some deemed it little more than a "sinecural title factory."³

But by the year 1890 it was less harried by these criticisms and dangers of dissolution, and now it began to push its claims and ask for added powers, for powers at least commensurate with those of the local boards. For what was its rule-making power, its authority to pass a sanitary code, without power to enforce its will or make its opinion

¹ *Report of State Board of Health*, 1885, p. 312.

² *Ibid.*, 1887, p. 1.

³ *Ibid.*, 1899, pp. 429 *et seq.*

felt? It had failed through legislative indifference, opposition or incapacity to gather the facts as to the births and deaths and conjugal conditions in the State. Must it fail, too, to get even the faintest recognition of those rules it had been given such fair-sounding power to pass? In 1885 it had asked for authority of sanitary supervision of all the public institutions in the State, and that the officers of such institutions should be required to report all cases of sickness and deaths to the board.¹ This suggestion was not considered by the Legislature, but, nothing daunted, the board's petitions for added powers were reiterated with ever-increasing strength. In 1889 it asked for mandatory authority in all matters regarding the public health.² In 1891 its plea took a somewhat different form. It asked to be endowed with the power to abate nuisances and establish and maintain quarantine, but that these powers be exercised only upon the application of resident citizens "setting forth that, for any cause, the local board refuses or neglects to properly protect the people."³ And to enforce the reasonableness of this request it was pointed out that there were numerous instances where the most flagrant violation of sanitary laws, and even of decency, had taken place, in which, because of social, business or even political reasons, no redress could be had through local boards.

Again, and for another season, the desires of the State Board were disappointed. The State had placed the imprimatur of superior obligation upon such rules as the board might devise, and from time to time brought testimony to their paramount authority. In 1892 it had provided that local boards should make such regulations respecting nuisances, sources of filth, causes of sickness, rabid

¹ *Report of State Board of Health, 1885, p. 99.*

² *Ibid., 1889, p. 192.*

³ *Ibid., 1891, p. 205.*

animals and quarantine, not in conflict with regulations of the State board, as might be necessary, and that the Mayors of cities and towns and the clerks of townships should forthwith without other authority establish quarantine in such cases as might be required by the rules of the State Board of Health and the local boards.¹ Such laws as these were the outward and visible sign of authority, but no more than this. The sign was present but the substance was entirely wanting.

Gradually the need for central authority of less shadowy outlines began to be felt by the people under the stress of experience. By the middle of the decade 1890-1900, and from then on, the applications of citizens to the State board for assistance became numerous. The aid of the State board was asked in removing nuisances caused by stock yards or creameries, to correct abuses connected with slaughter houses, improper sewerage or drainage, hog-pens, unburied dead animals and like sources of offence.² But to all this the State board was obliged to turn a deaf ear, permitting itself only to point out that the statute had given it no authority to abate a nuisance or make any order therefor, or enforce a quarantine.

The General Assembly was not so much opposed to an addition of effective authority—though there was beyond a doubt much strenuous protest to any addition—as it was unconvinced of its necessity. Indeed, on occasion it had strengthened the State board in divers minor ways. In 1898, in the law to prevent adulteration and deception in the sale of linseed or flaxseed oils, and to regulate their sale, the State Board of Health was empowered to make rules for the enforcement of the act, and it was provided that the board, its inspectors, assistants, experts and chemists, and others appointed by it, should have access to all

¹ *L.*, 1892, c. 59.

² *Report of State Board of Health*, 1897, p. 69.

places where such oils were kept for sale or stored or manufactured.¹ At the next session it was provided that the board should determine the number of inspectors of petroleum, not to exceed fourteen, who were to be appointed by the Governor.² And the board was empowered to make rules and regulations for the inspection of petroleum products and for the government of inspectors, and it was given authority to prescribe the instruments and apparatus to be used. Another of the minor authorities thus added was that whereby the board might prescribe the rules for the distribution among the medical schools of the State of bodies from poor houses, asylums and similar institutions.³ These things all indicated that the fixity of the board would not again be assailed, that in the development of the State and new State functions it filled an important place, from which even the narrowest policy would not be likely to dislodge it.

At last, in 1902, it was made a central power—a State administrative authority with the right to direct and demand of the local administration the observance of its will. This was accomplished, however, not through any coddling of the legislative favor, but through a striking object lesson in public catastrophe and sinister inefficacy of the law. Small-pox had broken out in different parts of the State for several years preceding the winter of 1902, and each year it appeared to be on the increase.⁴ In 1902 it took on unusual and what to outsiders seemed threatening proportions. In the city of Des Moines, with a population of over 62,000, it was estimated that there were several hundred cases at one time. The disease came early in the winter and remained well into the spring. Yet there was much reluctance and slackness in the enforcement of the

¹ *L.*, 1898, c. 52.

² *L.*, 1900, c. 83.

³ *Code*, 1897, § 4946, as amended, *L.*, 1900, c. 129.

⁴ *Report of State Board of Health*, 1901, pp. 34, 36.

quarantine laws. This was due to several causes. When the disease first broke out in Des Moines a heavy expense was incurred in quarantining. This made the matter odious to the city council. And as it soon appeared that the disease was of a very mild type, there being almost no deaths from it, the quarantine was in many instances relaxed and indifference prevailed. That the mortality was so low medical experts have explained as due to the fact that the people of the community and their parents had been vaccinated. Among the Indians at the agency the mortality was between 13 and 14 per cent. Many other parts of the State were visited.

But this enormous per cent. of disease to population in the chief city of the State soon attracted attention from abroad. It awakened almost national interest. The apprehension on the part of the city of Chicago was especially strong, so strong indeed that there were threats of discontinuance of business relations with Des Moines. The State Legislature was now in session in the city. It saw that the city council was prone to disregard the advice of the State Board of Health, until the city had been given what was almost an ultimatum from the Health Commissioner of Chicago. The National government took a hand. An agent from the Marine Hospital service made representations and suggestions in the case. The Postoffice Department ordered the mails fumigated at Des Moines. And now for several days the churches, the public library and, nominally, the theatres, were closed. It would hardly need more than this, when enacted under their very eyes, to induce any legislative body to take action. And this the General Assembly did, and gave the State Board of Health full power itself to put its rules and regulations into operation in any community neglecting to observe them. Thus under the pressure of manifest need central control was established in this branch of the administration.

It is not alone in the boards of health, State and local, that centralization of the administration of the public health and safety has developed. The State has assumed certain auxiliary functions which have contributed to this end, in the control of cattle diseases, in the inspection of mines, and the inspection of milk and milk products. We may now trace the development of the administration in these directions.

Previous to 1884 statutory provisions for the care of cattle diseases were practically wanting. Such regulations as were made and enforced were in general customary or a part of the local health regulations. They were very meagre. Horses, mules and asses diseased with nasal gleet, glanders or button farcy running at large without any known owner might be taken before a justice of the peace, and upon his order be destroyed and buried,¹ and police officers and officers of societies for the prevention of cruelty to animals, or magistrates might destroy any horse or other animal disabled and unfit for further use.² These were not exactly health regulations, but they were about all the State had with regard to animals at the time.

The creation of the office of State Veterinary Surgeon, like the State Board of Health, was founded upon a Governor's message. But the State Veterinarian may be said to have existed in fact before he did in law, and this, too, through the instrumentality of the Governor. The office was created in 1884. For two years the Governor had received many calls from different parts of the State for the services of some man skilled in the diseases of horses and cattle, competent to check the spread of glanders and pleuro-pneumonia. The Governor called upon the professor of veterinary surgery at the State College of Agri-

¹ *Code*, 1873, § 4057; *Code*, 1897, § 5014.

² *Code*, 1873, § 1484; *Code*, 1897, § 2339.

culture for services in the matter. In most of the localities visited by him the people willingly paid his expenses and compensation. In the few cases where this was not done the Governor made a small allowance from his contingent fund. Impressed by this experience with the need of a State Veterinary Surgeon, the Governor recommended the establishment of the office in his message of 1884, and that this officer be made a member of the State Board of Health.¹ The suggestion was agreed to and the office was created, the Governor to appoint and remove its incumbent.² The State Veterinarian was given supervision of all contagious and infectious diseases among animals in or being driven or transported through the State, and, with the State Board of Health, might make rules and regulations for prevention and suppression of such diseases, such rules to be published and enforced with the concurrence of the Executive Council.

It cannot be said that the authority of the State Veterinary Surgeon has been increased appreciably by law since the institution of the office, though something has been done through the personal influence of the officers themselves. In 1894 in fact a step was taken toward local control when central control might very well have been increased. Provision was then made for the inspection of diseased sheep by county sheep inspectors, who should be appointed by boards of supervisors.³ The State Veterinary Surgeon has no share in the appointment of these inspectors; they are not directly amenable to him, and only in a general way can he exercise a supervisory influence over them. Another step toward the diffusion of power was taken in 1897, when the Governor was authorized on behalf of the State to accept any rules and regulations prepared by the Secretary of Agriculture of the United States for the eradication of hog

¹ *Gov. Mess.*, 1884, p. 19.

² *L.*, 1884, c. 189.

³ *L.*, 1894, c. 49.

cholera and swine plague.¹ It was provided that the Governor, together with the State Veterinary Surgeon, might co-operate with the government of the United States for the objects of the law. The chief significance of these provisions lay in the further fact that the inspectors of the bureau of animal industry of the United States Department of Agriculture were given the right of inspection, quarantine and condemnation of animals affected with the hog cholera or swine plague, and sheriffs, constables and other police officers of the State were required to assist them. These latter provisions may have increased the control of animal disease in the State; it is notable that they do not carry an abrogation of State administration, but they very forcibly show the disinclination as yet to lodge wide powers with the State Veterinary Surgeon. Of a similar import is the law of 1900 creating the State Department of Agriculture.² This law provides that the department, among other things, shall investigate reports of the prevalence of contagious diseases among domestic animals, and report the results of the same, together with recommendations for remedies. But it is to be noted that the State Veterinary Surgeon is a member of the Board of Agriculture.

In the inspection and oversight of mines, primarily conducted for the care and safety of the miners, there has been a transition from local to State control. Previous to 1880 the function was left to the counties. The board of supervisors of every county in which coal or other minerals were mined were required to appoint annually an inspector of mines, who was to inspect the atmosphere in such mines, and upon the discovery of choke or fire damp in sufficient quantities to jeopardize the health or life of the employees or miners, he was required to determine the number and capacity of additional entrances or shafts or other means

Code, 1897, §§ 2350 et seq.

² *L., 1900, c. 58.*

necessary for proper ventilation, or ingress or egress in the case of explosions, or the falling in of the entrance or shaft.¹

In 1880 it was provided that there should be a State mine inspector, appointed by the Governor with the consent of the Senate, to hold his office for two years, subject, however, to be removed by the Governor for neglect of duty or malfeasance in office.² His salary was \$1,500. In 1884 it was made \$1,700.³ In 1886 the number of inspectors was raised from one to three, the Governor to divide the State into inspection districts and assign the inspectors to duty in such places as he should deem proper.⁴ The salary was reduced to \$1,200 per annum. The only further change of importance was that of 1888, providing that the Executive Council should appoint a board of examiners consisting of two practical miners, two mine operators and one mining engineer, this board to examine applicants for certificates as to their ability to inspect mines, and the Governor to make his selections only from the holders of such certificates.⁵

The inspection of milk in cities of a population of over 10,000, now conducted under the supervision and direction of the State, must be regarded as another direction in which the administration of the public health and safety has developed, and, so developing, has brought State control. This is a rather unusual departure in State administration. In most Commonwealths the matter has been left entirely to the cities, be they large or small.

The office of State Dairy Commissioner was created in 1886.⁶ The object of its creation was to prevent deception in the manufacture and sale of imitations of butter and cheese. The Commissioner was to be appointed by the Governor with the consent of the Executive Council, though

¹ *L.*, 1872, c. 44; *Code*, 1873, § 1567.

² *L.*, 1880, c. 202.

³ *L.*, 1884, c. 21.

⁴ *L.*, 1886, c. 140.

⁵ *L.*, 1888, c. 52.

⁶ *L.*, 1886, c. 52.

later such consent was not required.¹ A very liberal appropriation was made for carrying out the act. But it was not until 1892 that the authority of the Commissioner was extended to include the inspection of milk and the granting of milk permits in the larger cities.²

II OPERATION AND RESULTS OF THE ADMINISTRATION

The State Board of Health is composed of four classes of members, all of whom have professional qualifications. They are the Attorney-General of the State, the State Veterinary Surgeon, one civil engineer and seven physicians. With the exception of the State Veterinary Surgeon the board has been thus constituted from the beginning, the State Veterinary Surgeon being added in 1884. The term of the seven physicians and the civil engineer is seven years, expiring at different times. These members are appointed and for cause may be removed by the Governor. Until 1896 there was no restriction other than the general qualifications. In that year it was provided that no one of the physicians thereafter appointed should be a member of the Faculty of any medical school in the State.³ In 1900 a geographical limitation was introduced. The State was divided into eight health districts, and it was enacted that whenever vacancies occur in the board it should be the duty of the Governor to appoint to membership on the board physicians residing in the various health districts until seven districts are represented, after which time the annual appointment is to be made from the district not represented the preceding year.⁴ The secretary of the board is the only salaried member, and he is the board's executive officer, though the presidency rests elsewhere. The secre-

¹ *Code*, 1897, § 2515.

² *L.*, 1892, c. 50.

³ *L.*, 1896, c. 91.

⁴ *L.*, 1900, c. 88.

tary must be a physician. His salary is determined by the board, but may not exceed \$1,200 yearly. The other members of the board receive only their actual traveling and other necessary expenses. The sum at the disposition of the board is limited to \$5,000 per year, and from this must come the secretary's salary, the expenses of the board, the contingent expenses of the secretary's office, which is established at the State capital, and all the costs of printing. The statute does not provide for a biologist, chemist or laboratory facilities. The board, however, appoints an official biologist and chemist, whose compensation is met by fees for services performed.

The functions of the board fall into several categories. Its functions with relation to the local boards of health constitute perhaps the most important class. Of secondary, but still of great, importance are those general State health powers that it exercises with the entire Commonwealth as the unit of administration. Embraced in this class are found such powers as regard the distribution of bodies among the medical schools, the publication of circulars, bulletins, etc., and the transportation of corpses. In another group may be placed the powers that it exercises with the State Veterinary Surgeon in controlling cattle disease through its rules and regulations. However, in the execution of such rules the Veterinary Surgeon is entirely independent of the board. Finally, the powers that the board exercises in relation to the inspectors of flaxseed and linseed oils and the inspectors of petroleum are to be distinguished. A still further class might be added, but not without extreme qualification. The medical members of the board constitute the State Board of Medical Examiners, with power to examine all applicants to practice medicine in the State, of whatever kind or school. And though the secretary of the State Board of Health is, moreover, the

secretary of the Board of Medical Examiners, the two boards are entirely independent and have no legal identity.

Taking up these powers in their several classes, the first to be commented upon are those found in the relation of the State Board of Health to the local boards. It has been shown what a fiasco was the attempt to secure the registration of vital statistics. And yet had the law been workable, here was one of the most plausible avenues for the gradual upbuilding of administrative strength and harmonious relations between the State and the local health administration. Under the law as it stood at first physicians and midwives were required, under penalty, to report all births and deaths to the clerk of the district court, who, in turn, was to report these facts, together with the county registration of marriages, to the secretary of the State board.¹ In the same law it was required that the official physicians and clerks of the local boards should report their proceedings and such other facts as the State board might require. The law as it now stands supposes this double series of reports, except that the duty of physicians and midwives has been transferred to the local assessors.² Under every device yet adopted there has been complexity, lack of real coercive authority, and a duplication of ministerial officers. With so many cooks perhaps we should not wonder that the broth was spoiled.

The second means through which the local boards might have been made amenable to the State board, had the statute been possessed of a little greater vigor, was that providing for the making of rules and regulations by the State board. The power granted was general and with little limit. The board was authorized "to make such rules and regulations, * * * as they may from time to time deem necessary for the preservation or improvement of the public

¹ *L.*, 1880, c. 151.

² *Code*, 1897, § 2566.

health." But not until 1902 did this become more than empty legal verbiage. It then became real, and a power that, if taken full advantage of, may prove to be the corrective of almost every evil of lax township or city administration. The law is inclusive. It gives the State board power to enforce any of its rules and regulations when the local board neglects or refuses to enforce them, and for that purpose the board has and may exercise all the powers given by law to local boards of health, that is, the State board becomes, as it were, a local board for the time being. The expenses of such enforcement are to be paid in the same manner as is provided for the payment of similar expenses of local boards of health.¹

This is the important element in the new law. The act whereby the State board was created provided that its rules and regulations should be enforced, and gave the board power, so-called, to demand the assistance of the police officers and all other officers of the State in securing their enforcement. Such authority, however, proved futile. It was narrow, and it did not carry with it the power to make a charge against the township or city whose health officials had been delinquent.

A number of States have provided special State funds for use by the State board when central interference is necessary, but it would seem that the policy of making a charge upon the local division were preferable, for it will make the locality alive to the character of its local board and alert to see that the regulations are enforced. It is too early to say what will be the results of this law generally, but so far it seems to have worked admirably, though it has operated in most cases rather *in terrorem*, as judges sometimes say, than by active application. To December 5, 1902, that being the date of the last information obtained

¹ *L.*, 1902, c. 107, and *Code*, 1897, § 2571.

by the writer, it had been necessary to use this authority in but two cases. In these cases the president of the board says, "Authority was delegated to some competent and judicious physician to do the work at the instance of the State board. It was effectively done, and no wrangling or litigation grew out of the exercise of this authority. It was exercised only in cases of palpable neglect, and left no opportunity for litigation. The fact that such power could be and would be used was sufficient." ¹

The secretary of the State Board of Health, as its executive officer, has been frequently called upon to render personal assistance to local boards, to State institutions or to individual petitioners. Such questions as correct diagnosis or the determination of causes of disease in special circumstances frequently come before him.

There appears to have been little effort whose direct aim and principal purpose were to secure the organization of local boards. But we find little complaint upon that score at any time in the history of the State board. One of the earliest criticisms was, not that there was failure to organize, but that there was failure to report when organized.² In 1883 it was complained that not one-half of the organized local boards had reported. It is now asserted that there are almost no cases where organization has not been effected. Sometimes the fact that there has been no organization will transpire. Usually it is brought to light by some local officer attempting to exercise a power which can be legally exercised only by a health officer or member of a board of health or its agent. Such officer will be taken to task, and in many cases organization will speedily follow.

Of the health functions exercised by the State board independently of the local boards the one that has developed

¹ Letter from Dr. A. M. Linn, President of the State Board of Health.

² Report of State Board of Health, 1883, p. 129.

into the greatest influence is that of publication of circulars and the dissemination of information concerning sanitation, hygiene or the diagnosis and the cure of disease. In 1887 the *Iowa Health Bulletin*, published by the State board, began its career. Several thousand copies of this journal are issued and distributed every month free of charge to all the local boards, to interested physicians and others. The information collated in this journal, as well as that in the special circulars, is directed both to the people and to the medical profession. During the small-pox pest, for instance, a circular was prepared describing the small-pox in untechnical terms, so as to enable any one to detect it.

Among other State-wide functions of importance is that relating to the transportation of bodies of persons dying of infectious disease. The State Board of Health was one of the first to adopt rules whereby bodies of those dying of diphtheria, scarlet fever, glanders, anthrax or leprosy could be transported, and, so it is stated, it was the first to provide for the examination and licensing of embalmers.¹ Within the last few years a number of States have enacted laws providing for such examinations. The authority of the Iowa board came about in a different way, and in the development of that authority the fertile strength of the rule-making power of the board is well displayed. The board had sought of the General Assembly direct legislation for the examination and licensing of embalmers. But this it failed to obtain, whereupon the opinion of the Attorney-General was requested as to the board's powers. He replied that he believed it within the board's competence to legislate in the matter. Accordingly it proceeded to the adoption of the appropriate rules and regulations. And under the rules so adopted, without special legislative action and, so far, without judicial endorsement or reprobation, the examination

¹ *Report of State Board of Health, 1901, p. 78.*

of embalmers has continued. This is administrative legislation. Its force depends somewhat upon a third party—the transportation companies, which have been authorized and have agreed to transport bodies coming from the licensed embalmers. The rules went into effect September 1, 1898, and by June 30, 1901, four hundred and sixty-six embalmers' licenses had been issued.

Little can be gathered from statistics to show what has been the effect of the health administration upon the death rate and the general sanitary conditions of the State. This is due to the deplorable puerility of the several laws for the collection of vital statistics. As has been shown, none worth publication have as yet been gathered.¹ The formidable compilations of uncertainties and statistical guess-work made according to law are allowed to rest in the cabinets of the State board undisturbed. For they are well nigh valueless. They are certainly misleading.

The method usually employed to test sanitary conditions as modified by health administration is the comparison of the zymotic death rates over different periods or the zymotic death rates combined with the rates in diseases which are most subject to control by sanitary regulations. But nothing of the kind is, as yet, possible in Iowa. Not only is this so with regard to the State as a whole, but it cannot be attempted even in the registration cities. Of the seven registration cities in Iowa in 1900, which were Burlington, Davenport, Keokuk, Marshalltown, Muscatine, Oskaloosa, Ottumwa and Sioux City, only three provided for registration in 1890, or gathered data sufficient to justify an estimate of the death rate. These three were Davenport, Keokuk and Muscatine. And little can be gathered from such isolated instances. The comparison of the general

¹ For argument of the State board on this matter, see especially its reports for 1895 pp. 345, 346, and 1901, pp. 108, 109.

death rate in these three cities makes this sufficiently evident. In Davenport it was 16.4 in 1890 and 15.9 in 1900. There was thus a decrease. But in the other two cities there was an increase. In Keokuk the rate was 14.7 in 1890 and 19.1 in 1900; in Muscatine 15.7 in 1890 and 17.1 in 1900.¹ The matter must be left in doubt until an adequate system of registration has been perfected. But there seems to be ample ground for assuming that the system of State and local boards has contributed greatly to the improvement of the sanitary conditions. Outbreaks of disease or untoward sanitary conditions have usually, though by no means universally, been conspicuous by their absence. Still more may be expected from the added powers that have been conferred upon the State board.

Of the State board's functions in conjunction with the State Veterinary Surgeon, in which a third class of powers has been roughly grouped, little will be said here. It is sufficient to note that the power to make rules and regulations for the suppression and prevention of cattle diseases enables the State board to obtain added light upon its primary duty—the preservation of human health. The recent controversy concerning the relation of tuberculosis in cattle to tuberculosis in human beings illustrates this.

The relations of the State board to the inspection of flaxseed and linseed oils and the inspection of petroleum products are also of minor importance. As regards the particular interests involved, however, they are very significant, for the board has power to determine the number of inspectors, not exceeding the statutory limit, that shall be appointed by the Governor,² and also has powers to make rules and regulations for and prescribe methods of inspection.³ The State board is given a very close control over

¹ *Twelfth Census of the United States*, vol. ii, part i, p. lx.

² *Code*, 1897, § 2503.

³ *L.*, 1898, c. 52.

the inspection and regulation of the sale of linseed and flaxseed oil. Violation of any of the provisions of the act relating to the manufacture and adulteration of linseed or flaxseed oil is declared to be a public nuisance, and any court of competent jurisdiction is authorized upon the application of the State board or its agents to enjoin the violation. And it is made the duty of the county attorney upon the application of the State board to conduct the prosecution. But the board has been indisposed to press legal proceedings when the county attorney or oil inspector has recommended that they should not be pressed. The board has expressed its belief that enforcement of the provisions of the act, further than the duty of determining the quality of the oil, should not be placed upon it, and the secretary has expressed the belief that the testing of such oils is not the appropriate work of a sanitary body.¹

The State Board of Medical Examiners and the State Board of Health, though legally distinct, have a close relation. And this relation has an important bearing upon the health administration. For in the hands of the board of medical examiners is placed the power of granting and revoking licenses of physicians. There are numerous cases where physicians, through ignorance or a desire to shield patients, fail to report to the proper health officers cases of contagious disease subject to quarantine. In some of these cases the board has disciplined physicians, but the statute gives it power to revoke certificates only in the case of bad moral character, habitual intoxication, lack of qualification, incompetency or fraud in procuring the certificate, and as yet these causes have not been interpreted by the courts to include delinquency in reporting contagious disease. This being the case, a definite law upon the subject

¹ *Report of State Board of Health, 1901, p. 21.*

granting the board power to suspend and revoke certificates in such cases has been recommended.¹

The organization of the auxiliary health administration, the veterinary department, the mine inspection and the milk and dairy inspection, is shown to a great extent in the discussion of the historical development. Here we need add but a few details, with some comments as to results.

The position of the State Veterinary Surgeon has an unstable basis. Not because the control of cattle diseases is an authority in which single-headed and centralized responsibility would be unwise, but because it has been the victim of legislative chances and of the expedients of indifference, it has been spread out thin over so many offices. For the care and regulation of cattle diseases is now reposed in no less than five sets of officers, in the State Board of Health, in the Governor, in the officers of the United States Department of Agriculture, in the county sheep inspectors, and finally in the State Veterinary Surgeon. To this list might be added, with some limitations, the State Department of Agriculture, the Executive Council and the justices of the peace. This system of diffusion of responsibility has taken advantage of constituted organs, but in many cases such decentralization must have meant a sacrifice rather than a saving. The theory of governmental checks has been carried to an extreme in the provision that the Executive Council shall concur in the rules and regulations for the control of cattle diseases, as adopted by the Veterinary Surgeon and the State Board of Health.

The compensation of the Veterinary Surgeon is five dollars per day and expenses while actually engaged in the discharge of his duties. In cases of emergency the Governor may appoint assistants or substitutes. The annual expenditure for this service is limited to \$3,000 per year.

¹ *Report of State Board of Health, 1901, p. 80.*

The point worthy of most attention in the law for the inspection of mines is found in the new powers that State as against local administration brought with it. With the transfer of the duty and power to the State there came a broadening in the functions and authority of the inspectors. For instance, when the mine inspector finds the air insufficient or the men working under unsafe conditions, he is required to give notice thereof to the mine owner or agent, and upon failure to make the necessary changes he may order the men out, to remain out until the mine is put in proper condition.¹ Furthermore, while under the local administration failure to observe the requirements of the inspectors simply made the mine owner answerable in "full damages" to the person injured or his family,² under the State administration the inspector, in addition to all other remedies, may obtain an injunction against the continued working of the mine when the requisite appliances are not provided.³ The power to test the oils used in mines for illuminating purposes and require that they reach a certain standard is another authority that has come, though rather more recently, with the change in the administrative system. The State Board of Health is empowered to fix the standard of purity and establish regulations for the testing of oils. For a short time the inspection was made by the mine inspectors,⁴ but now it is made by inspectors of petroleum products.⁵

The State Dairy Commissioner, like the mine inspectors, the Veterinary Surgeon and the members of the Board of Health, is required to possess special qualifications. He must have "a practical knowledge of and experience in the manufacture of dairy products." He is allowed a salary of \$1,500 per year, and must devote all of his time to the work

¹ *Code*, 1897, § 2488. ² *Code*, 1873, § 1568. ³ *Code*, 1897, § 2492.

⁴ *Ibid.*, 1897, § 2945.

⁵ *L.*, 1898, c. 60.

of his office. His position is unique among those branches of the administration in which are found both local and central officers. To the extent that the State has authority over the local milk supply, its regulation and inspection, it is entirely central control. The local inspectors are appointed by the State Dairy Commissioner, and are answerable to him alone. They are subject neither to city council nor county board of supervisors. But it is to be remembered that the jurisdiction is limited. It applies only to cities having a population over 10,000. In 1901 there were fourteen cities within this class in the State, their aggregate population amounting to about sixteen per cent. of that of the entire State.

There is one inspector in each of these cities. He is payable at the rate of \$3.00 per day for each day that he is employed. In no case does he work less than three days in each month, while in Des Moines, where more than one-fourth of the total permits are issued, he works on an average of fourteen days. At first samples were sent to the State Dairy Commissioner himself for inspection, but with the introduction of the Babcock test this has become unnecessary. However, monthly reports of the inspections are made to the Commissioner, so he is enabled to keep a careful lookout for cases falling below the minimum grade. Indeed, the power of the Commissioner himself to inspect and administer the law is in no wise diminished by the existence of these agents. He, as well as his inspectors, may open any can or vessel in which milk or cream is offered for sale in one of the cities in the class concerned. And he has the power, very often refused to administrative officers, to subpoena witnesses, enforce their attendance and examine them under an oath administered by himself.

If we place the several branches of the administration of health and safety side by side and notice their relations, the

one to the other, the conspectus will cause several important facts immediately to appear. It becomes apparent that the State Board of Health is the paramount authority. The State board is seen to touch every branch of the health administration with the exception of the dairy and milk inspection. It touches them through its legislative authority, that is, its power to make rules and regulations. This is the chief source of its power, but the several branches feel its administrative influence as well, the local boards of health in their liability to the State administrative action should they neglect the rules and regulations of the State board, the several inspectors of oils, petroleum and mines in their obligation to heed the rules of the board, and in various incidents of administrative power. However, the State Veterinary Surgeon, though the rules that he enforces are the rules of the State board, is, so far as the State board is concerned, an independent executive agent. Almost as much is to be said of the mine inspectors.

Another prime fact is that all the officers in this department of administration are appointed by the Governor, and are removable by him. With the exception of the members of the State Board of Health not otherwise officers of the State, whose term is seven years, the term of office is short, generally two years; in the case of the State Veterinary Surgeon three. This means a large measure of executive direction and control.

In any forecast of the future of the health administration it should be remembered that the tendency of recent legislation has been to bestow even greater powers upon the State Board of Health, both in its relation to the general State administration, whether it concern immediately or remotely the public health, and in its power over the local boards. It should also be observed that this has been done without increasing the material equipment of the board,

without providing for assistants, or longer or more properly executive sessions of the board. Five thousand dollars remains the limit of the appropriation. There are as yet no laboratory facilities and no official chemist or biologist. It would seem that the future of health administration generally is to be in the direction of greater scientific investigation. Modern research has shown that nuisances and filth have comparatively little causative relation to disease,¹ yet, as we have seen, the health administration in its earliest form in Iowa took the direction of the abatement of nuisances, and in that form has occupied a large part of the law to the present time. But now the road seems turning; with it the demand for greater facilities for scientific investigation and experiment are met with. Thus the need for laboratory facilities, the need for central strength to exercise the powers now given the State board to enforce its rules, and the gradual accumulation of many minor functions in its hands—these things all point toward the need of upbuilding at the center. The powers have received a wise extension and circumscription. The material tools now remain to be provided. In some other branches of the health administration, particularly in the care of cattle diseases, where authority is held in so many hands, and where consolidation would appear to be of advantage, there may appear opportunities for improvement, but, as a whole, it is to be said that the administration of public health and safety has been wisely organized.

¹ *New York State Library Bulletin*, no. 72, p. 157.

CHAPTER V

PUBLIC FINANCE: INCOME AND ADMINISTRATION

I GENERAL CHARACTER OF THE INCOME ADMINISTRATION

THE study of the income administration of the State of Iowa, and of its finance administration generally, is instructive not so much for what it now is as for what it has been. As a development it is of striking suggestiveness. But the product of that development is not what might have been expected. We shall find in the history of this administration, in the interplay of harmonious or antagonistic forces that have worked now to the peaceful sustenance of the State, now to heated ferments in courts, Legislatures and political conventions, a drama of the controversies of the day. The question of segregation, that is, of the separation of State and local sources of revenue, the question of central or local assessments, the questions of uniformity and equality of burdens, all of these have at one time or another occupied the center of the stage, and one by one they have to a large degree been thrust back by the iron discipline of judicial interpretation, by the indifference of the people or their representatives, or by the manipulations of the supple agents of special interests.

To-day the financial system of Iowa, like that of the great majority of the States, offers but a bleak prospect to the searcher for evidences of advancement in financial institutions. Here and there he does encounter something that

commends itself to his opinion, the inheritance tax, or the State assessment of the values of non-local public service corporations, but these are almost overborne by the dead level of the general property tax, which has stretched its paralyzing influence over all forms of value alike. But there was a time in the history of the State when there seemed every promise of a separation of State and local revenues, and State equalization not only as between counties but as between towns as well, not only as between real property values but as between personal values also, these and other measures of advancement. Because of these facts, then, our study of the income administration will be more preponderatingly historical than has been that of the school, the institutional or the health administration, and we shall content ourselves with only a brief examination of the system of to-day.

There is no branch of the administration so difficult, none so involved, as the financial. So multitudinous is the machinery of that administration, so various its parts, that we may speak of centralization or decentralization and mean any one of half a dozen things if we do not take the pains to define the connotation of the moment. For this reason it is necessary that a plan somewhat rigidly systematic be pursued in the treatment of this branch of the subject.

First we shall take a brief historical survey of the beginnings of the finances down to and including the Code of 1851. There will then follow a detailed analysis of the specific movements that begin with the middle of the century, of the rise and decline of segregation, of State assessment, of State equalization and of State direction of the local administration. And a final section will discuss the correlation of the various processes of centralization or decentralization, and the possible remedies for present defects. The first two divisions will supplement the one the

other. Both will be historical. The reasons for particular discussion of segregation, State assessment, State equalization and State supervision of local administration will readily appear as the reader progresses. It will be seen that in them are wrapped up practically all the problems of the finance administration, and more especially those of centralization.

II HISTORICAL SURVEY OF STATE TAXES AND STATE TAX ADMINISTRATION, 1834-1860

In the year 1834 Iowa was redeemed from that peculiar condition of civil neglect which had left it almost a forgotten land on the outskirts of a vigorous government, a land over which, though a part of the United States, a President of the United States refused to exercise authority, believing he had none.¹ In the year 1834 it was given a civil status. It was made a part of the territory of Michigan. Prior to this time, it seems, no taxes had been levied.² Whatever sums were needed for the execution of the rude squatter government of the day were raised by voluntary contribution. In a day when without any lawful court to try civil causes or criminal complaints, the self-constituted tribunals of the people assumed to condemn even to death, then raised the costs of the trial by popular collection,³ financial practice and financial administration of course had no place.

But with the territorial Constitution there was at least a law for taxation, whether there was any substantial levy and collection or not. Beginning with this new era in 1834 and extending to the year 1851, when the first code was adopted, we have a period that, corresponding somewhat to the earliest period in the school administration, we may describe

¹ See Macy *op. cit.*, p. 350.

² See F. H. Noble, *Taxation in Iowa*, p. 10.

³ Macy, *op. cit.*, p. 350.

as one of pronounced decentralization. The taxes during this time are of the nature of general property taxes, poll taxes or license fees. And their administration is at no time given any modicum of very effective central control. In the early years of the period the central State government is, in the matter of contributions, almost left to the mercy of the local divisions, so loose is the law.

Of prime importance in the first twelve years of this period is the territorial status. For during the territorial period the government is supported in chief, though not entirely, by the national purse. This fact promotes an unhealthy torpor. The central territorial government is to a degree careless of the financial enginery of the local. It expects little from it, and, as if it were not worth while, is indisposed to make fast that little. In 1838, after having passed from under the overlordship of Michigan, then been severed from the Wisconsin territory and government and made a territory by itself, Congress, to launch the new government, granted the sum of \$24,675, out of which the civil list, the expenses of the Legislative Assembly and the printing of the laws and taking of the census were to be paid. Congress also made appropriations for territorial buildings, a penitentiary and a library, part of which it augmented from time to time, while it continued its appropriations in ever-increasing amounts for the support of the territorial government. But apparently the sums were not adequate to the needs of the territory, for the treasury was continually running behind, and the messages of the Governors continually demanding an economical administration.¹ It can hardly be said that the financial administration of the territory was a success. This is imputable to several causes. If the tirades of many who voiced contemporary sentiment on this matter, or even the milder criticisms of

¹ See *Gov. Mess., H. J.*, 1840-41, p. 12; *Ibid.*, 1841-42, p. 15.

executive messages are to be accepted, it was largely due to the parsimony of the National government.¹ Especially was the government accused of failure to make adequate appropriations for the penitentiary that it had fathered. A second cause is found in the failure of the counties to pay over to the Territorial Treasurer their proportion of the territorial levy. The first year of the separate territorial existence only \$138.07 was paid into the treasury, while the amount of the arrears of taxes, as far as the counties had reported assessment rolls—and a number had wholly failed to do so—was \$442.66.² This might have been attributable in part to the peculiar law of the day, which provided not that the revenue from the counties should be based upon a territorial levy, but that the county treasurer should be required to pay over to the territory five per cent. of the taxes levied by the board of county commissioners.³ The further provision that this sum should be paid out of the first collection probably had little significance. But in 1841 this law was repealed, and it was provided in lieu thereof that one-fourth of a mill should be levied for territorial purposes.⁴ Still the arrears continued. In some cases counties gave not the slightest heed to the law, and financial officers and Governors alike united in scoring these delinquencies and the income system that made them possible.⁵ Several steps were indeed taken to remedy this defect, but they were all petty half measures—the county treasurer was required to collect the tax⁶ or county clerk to transmit

¹ *Gov. Mess., C. J.*, 1842-43, pp. 9, 10; *Ibid.*, *C. J.*, 1843-44, pp. 8-10.

² *Auditor's Report, H. J.*, 1840-41, p. 28. ³ *L.*, 1838-39, Jan. 25, 1839.

⁴ *L.*, 1840-41, c. 90.

⁵ *Auditor's Report, C. J.*, 1843-44, pp. 241, 242; *Gov. Mess., C. J.*, 1845-46, p. 18.

⁶ *L.*, 1844, c. 21. Under a previous law the tax was collected by a county collector, elected annually. *L.*, 1842-43, Act Feb. 13, 1843.

the aggregate valuation of the county to the State Auditor,¹ etc.,—and all fell short of the mark. It is possible that some of the blame for the failure to balance income and expenditure is to be attributed to the pioneer law-makers themselves, for we find numerous recommendations for shorter sessions, for the making of appropriations “more specific,” and like remedies, but there is little palpable evidence to shatter their now long-established reputation for careful expenditure.

Things had come to such a pass in 1845 that the treasurer could report that territorial warrants were worth but fifty cents on the dollar,² a depreciation that was scarcely to be found in any county of the territory, which though it could be traced in part to the creation of a debt of \$8,650, for the constitutional convention of the year preceding, was a sharp commentary on the shortcomings of the finances. And when the State was admitted into the Union in 1846 it came burdened with a debt of about \$20,000, not a large sum, but one sufficient to inspire many misgivings in a time of pioneer hardships and to make some enter dubiously upon the new era of State government.³

There had been those who had opposed the assumption of a State constitution and governmental autonomy largely because of reluctance to meet the burdens which the new form would impose,⁴ and this attitude had been successful in delaying for a time the adoption of a State Constitution,⁵ but now when at last the die was cast, when it was apparent that the old debt was not to be sloughed off upon the National government and that new exigencies were to arise, those

¹ L., 1844, c. 29.

² *Treasurer's Report*, C. J., 1845-46, p. 255.

³ *Gov. Mess., H. J.*, 1846-47, p. 14.

⁴ *Gov. Mess., C. J.*, 1845, p. 14.

⁵ Benjamin F. Shambaugh, *History of the Constitutions of Iowa*, pp. 167 et seq., 260.

in responsible positions began to turn their eyes to the ways and means of providing. The gubernatorial message to the first State Legislature breathed the spirit of vigorous inquiry and resolution to upbuild a sound finance. It is one of the very few messages that contains anything novel or original in financial recommendation. The Governor recommended that in order to meet the costs of the State government without at the same time too greatly increasing the general burden a reduction be made in the costs of the county and township by introducing greater simplicity in their government, by combining offices, by requiring clerks, sheriffs and others to transact the county business without fees, and dispensing with the *per diem* of grand jurors. He also recommended a tax upon suits brought in the district court of the State "as furnishing a legitimate and reliable source of revenue." Of the general property tax he made no criticism, saying that he believed the inequality and lack of uniformity complained of were as much due to the selection of incompetent and improper agents to execute the laws as to any defect in the system itself. The Governor in general terms called for the application of a wide and searching reform, but the character of that reform he left to the ingenuity of the Legislature.¹ He gave no hint as to its outline; probably he had none to give.

But if much was to be expected from the new order, the disappointment was complete, for there was practically no change of note from the taxation of the territorial period. Property, polls and licenses continued the bases. The rate of State levy was naturally increased. It was made two mills on the dollar. A few years afterwards it was increased to three mills,² but in the later history of the State it has not tended to go beyond this. Indeed, it has been much

¹ *Gov. Mess., H. J.*, 1846-47, pp. 12-18.

² *Code*, 1851, § 454.

less in many years.¹ Assessment was to be by the county sheriff, who was made *ex officio* county assessor. But this was not of stable significance. In 1853 change was made to township assessors.² In 1844 the assessment had been by township or, when there were no township, by precinct assessors.³ The year following a regular county assessor was to be elected for the purpose.⁴ And now in 1847 the duty was superimposed upon the police duties of a police officer.

In the matter of local equalization the law of 1847 showed at least a dim consciousness of the desirability of local review. But it was as yet rather a remedy for the aggrieved tax-payer than a function that should in all cases be performed by the local government of its own motion. It was provided merely that the county commissioners should examine the assessment rolls and hear and decide upon applications for abatement.

The most important of these unimportant variations from the territorial system was, however, the transfer of the tax on peddlers from the county to the State. Under this law there was to be collected for State purposes a tax of twenty-five dollars on every hawker or peddler of goods, wares and merchandise for the privilege of peddling throughout the State for one year. The tax was uniform for all such "pedlars," except the peddler of clocks, who had been made the special prey of these license fees from the first, and was now charged fifty dollars per year, something less than he had to pay under previous laws.⁵ This departure is de-

¹ The highest rate levied from 1879 to 1898 inclusive, was 2.9 mills. In the great majority of cases it was 2 mills.

² *L.*, 1852-53, c. 69. The State Auditor, however, strongly recommended change to county assessors in 1856. *Auditor's Report*, 1856, p. 161.

³ *L.*, 1843-44, c. 21.

⁴ *L.*, 1845, c. 5.

⁵ *L.*, 1846-47, c. 100. Subsequently these fees were increased somewhat.

scribed as of relative importance, not because it meant the shifting of a large fund of revenue from one order of government to another, for the product of the tax was always insignificant, but because it is the first definite step in the segregation of State and local revenues. True this revenue had been left to the counties before, but the facts of the territorial status and the insignificance of the tax forbid the attachment of any import to it. This feature of the law of 1847 was the beginning of segregation, an almost unwitting and feeble beginning, one to which the subsequent accomplishments in this direction owed no impetus, but yet it is worthy of attention as evidence of the fact that the State thus early was not necessarily bound by any devotion to uniformity of system for both State and local government.

There was almost no financial discussion and little change from now on until the Code of 1851 became law. But with the Code of 1851 well-nigh revolutionary changes in the organs of county administration, and so in the local administration of the income, were made. There were also sweeping alterations in the taxing system, both in the bases of taxes and in the machinery of their administration. Previous thereto the county was ruled by a board of three county commissioners; now it was placed under a single-man power, the county judge system. Previously there had been no State equalization, now a State board of equalization was created. Until this code there had been no such thing as distinct corporation taxes. The word corporation had hardly been mentioned in the revenue laws, and when it was mentioned it was by way of recitation and not of differentiation that it appeared.¹ But now the shares of

¹ This is subject to slight qualification. During the brief period when Iowa was subject to Michigan, express provision was made for the taxation of stocks in banks, insurance companies and other corporations, and the manner of assessment

bank stocks were expressly made subject to taxation.¹ Insurance companies incorporated outside of the State, doing business within it, were to be assessed one per cent. for State purposes and one per cent. for county purposes on the premiums received in the separate counties.² And, more important, the property of corporations or companies constructing canals, railroads and "similar improvements" were to be taxed through the "shares of the stockholders."³ Up to this time the Legislatures had gone upon the hypothesis that the individual holder of a corporate security would list the same as he did his other personal property, and had left corporations inferentially to the more than tender mercies of the general property law. But now such overweening confidence was done away with, and there was express provision for corporation taxation.

The Code of 1851 is justly famous. Seldom has a body of laws introduced so many and such extraordinary innovations. Its chief title to fame lies in the fact that it marked the abandonment of the common law and the adoption of the code system, and in the fact that it was one of the earliest of the American codes. But among its many remarkable provisions the revenue measures are not the least. And what renders them the more curious is that they passed the Legislature and were launched upon their course without let or hindrance. They were almost undiscussed by the general public,⁴ and while the same thing may be said of

was much like that of the present day. See *Laws of the Territory of Michigan*, arranged and passed by the Fifth Legislative Council, 1833, p. 88. Affected by Act approved Feb. 20, 1834, *Territorial Laws of Michigan*, vol. iii, p. 1270.

¹ Code, 1851, § 456.

² *Ibid.*, § 464.

³ *Ibid.*, § 462.

⁴ The *Democratic Enquirer*, of Muscatine, Ia., on Jan. 18, 1851, reviewing the proposals of the new code, mentions as important the usury laws, the license question, the individual liability clause in the general incorporation act, and says: "These are the most important changes proposed," thus showing how little significance was attached to the new revenue measures.

about all the provisions of the code,¹ it is to be wondered at most in taxation, which affects so intimately the interests and the passions of the people. But this was in general a period of apathy in revenue discussion. Not since 1846, when the retiring territorial Governor had expressed his earnest wish that a system might be devised whereby the rigors, the inequality, of the revenue laws should be reduced, had any Governor given much attention to the subject. The same is to be said, though not with equal inclusiveness, of the general financial officers² and, as it would appear, of the press of the State. It is not surprising in the lack of discussion that when nine years later the continuance of the county judge system was under debate there should be those who would assert that the people in the adoption of the system, as in other features of the code, had been imposed upon.³ The people had not in fact been imposed upon. Nothing had been done by stealth. But when in the operation of new organs and new laws they came to realize that here was a thing they had never discussed, had never expressed an opinion of, pro or con, the fact that they had slept while the law was born made it seem to some of them that they had perhaps been outwitted and wronged. But the measures of the code were in general satisfactory. It was only in a few instances that they provoked rebellion.

¹ The Iowa City correspondent of the *Democratic Enquirer*, on Dec. 21, 1850, reviewed briefly the proposed change in the county administration, and expressed himself as in favor of it, his chief reason seeming to be that, as he thought, it provided for the submission of all important questions to the direct vote of the people of the county. And yet the papers usually passed the matter over without more than the briefest reference to the fact that there was such action. And, see *The Iowa Star*, of Des Moines, Ia., issue of Jan. 2, 1851.

² Such recommendations as they had made, looked more to the perfection of the detail of the administration than any basic reform. *Auditor's Report, H. F.*, 1850-51, p. 6.

³ *Iowa City Republican*, Feb. 29, 1860.

Both in the school administration and in the administration of charities and corrections we have glanced at the county judge, and in either place we might have discussed the office at some length. But it is more in the financial functions that the importance and peculiarity of the office is evinced, and hence our slight examination may be made with more profit here.

Previous to the Code of 1851 the county had been administered by a board of three commissioners chosen at large from the county, the commissioner system dating from the Wisconsin act of December 20, 1837.¹ Under the Michigan territorial laws the supervisor system had been in operation, that is, the county was governed by a board of supervisors consisting of one elected from each township.² In 1834 the territory which had previously constituted but one county was divided at the lower end of Rock Island, by a line running therefrom through to the Missouri River, into a northern and a southern half, each of which was made a county, the northern being named Dubuque, the southern Demoine [*sic*].³ Each of these counties was constituted a single township for purposes of local government. With the passage under the Wisconsin government a still further division was made. Des Moines county was cut up into seven counties,⁴ Dubuque into fourteen.⁵ Shortly before the division of Des Moines county a system that was assimilated to the commissioner system, in a large measure, had been

¹ *Laws of the Territory of Wisconsin*, 1836-38, p. 138.

² *Laws of the Territory of Michigan*, vol. ii, p. 583, Act April 12, 1897 (and see vol. ii, p. 317, Act March 30, 1827), abolishing the system of three commissioners appointed by the Governor, as created by Act May 8, 1820; *Ibid.*, vol. I, p. 661.

³ *Engrossed Laws of the Territory of Michigan*, Act Sept. 6, 1834.

⁴ *Laws of the Territory of Wisconsin*, 1836-38, p. 78, Act Dec. 7, 1836.

⁵ *Ibid.*, p. 132, Act Dec. 31, 1837.

formally adopted.¹ This was further confirmed and made specific,² and it continued from now on till 1851, but not without deviations of some importance. By special acts a number of counties were empowered to district themselves and provide for the election of commissioners, one from each district.³ In 1847, indeed, it was provided that all counties in the State might be divided into county commissioner districts⁴ and commissioners be elected from the districts, but this did not mean that they must adopt the system of local representation. It was merely an authorization, to be followed or not, as the county pleased.

The Code of 1851 now gave the county judge the powers that had been exercised by the commissioners, and, moreover, the powers of probate judges. From the beginning of its distinct organization the territory had had a separate probate judge for each county.⁵ This may be accounted for by the organic law itself, which apparently contemplated the creation of probate courts that should be distinct from the Supreme Court, district courts and the justices of the peace. The creation of the office of county judge was not a displacement of the office of probate judge, but an extension of that office. The commissioners, rather, were the officers dislodged.

The county judge had almost autocratic powers. At no period in the history of the Territory or State, not even under the first territorial governorship, when the Governor had been given power to appoint all inferior judicial officers,

¹ *Laws of the Territory of Wisconsin*, 1836-1838, [p. 64, Act Dec. 6, 1836.

² *Ibid.*, p. 138, Act Dec. 20, 1837. ³ *L.*, 1839-40, c. 8; c. 41; c. 50; c. 85.

⁴ *L.*, 1846-48, c. 72. Indicative of the shifting of local organization and administration are such acts as c. 107 of the laws of 1848-49, which repealed the township organization of Scott county, providing the township boundaries should thenceforth be merely those of election precincts.

⁵ *L.*, 1838-39, Act Jan. 19; *L.*, 1846-47, c. 109.

justices of the peace, sheriffs and clerks of courts, and veto absolutely the acts of the Legislative Assembly, had a public officer, within the possible natural limits of his particular sphere, been given such wide powers. These powers were primarily financial, and so administrative. In the second place they were judicial. Thirdly they were, to a degree, legislative.

His administrative powers were found chiefly in the provision that he should be the "accounting officer and general agent of the county." As such he was required to manage all county business, have the care and custody of all county property, except such as was by law placed in the custody of another officer, audit all claims for money against the county and draw and seal all warrants on the treasurer, audit and settle accounts of the treasurer and any other collector or receiver of county revenues and those of any person entrusted to expend any money of the county. He must keep a series of books relating to the various branches of his office, and, in particular, was required to keep a distinct account with the treasurer. He must "superintend the fiscal concerns of the county and secure their management in the best manner." He was required to keep an account of the receipts and expenditures of the county, and make regular statements thereof. And he was given the place of a county attorney in civil affairs, being required to institute and prosecute civil actions brought for the benefit of the county.¹ Moreover, the county judge had power to establish, change and discontinue all county roads and all public highways not established by the Legislature, to regulate the care of the poor,² to change the boundaries of

¹ *Code*, 1851, § 106.

² *Ibid.*, § 129. These particular powers, with some others, were given to the "county court" rather than the county judge, but for all practical purposes the two were the same, and it is needless to distinguish them here.

civil townships,¹ to grant franchises for a long period. And finally, in addition to the above and many miscellaneous duties that they carried with them, some of them widely discretionary, he had the almost inconceivable power to levy taxes and cause them to be collected, though he might not of course exceed the legislative limit.² It will be observed how conspicuous—almost unlimited—were his financial powers. Here was local centralization in the administrative machinery of the finances carried to an unusual extreme.

His legislative powers, strictly speaking, were almost entirely those of initiation. He was empowered to submit to the people of the county at elections the question whether money should be borrowed to aid in the erection of public buildings, whether stock should be permitted to run at large, or at what time it should be prohibited, and the question of any other local or police regulation not inconsistent with the laws of the State. And when the warrants of the county were at a depreciated value he might submit the question whether a tax of a higher rate than that provided by law should be levied.³ While there were thus certain questions that he should submit to the electors, the exact time and conditions of such submission were not prescribed. Moreover, there was a certain indefinite body of local or public questions that he might submit or not, as he pleased. Thus his legislative discretion was wide.

The powers thus conferred were such as, if placed in the hands of corrupt men, could have been used in such a manner "that financial ruin and bankruptcy would have been the inevitable result."⁴ They were such that any one

¹ *Code*, 1851, § 219. ² *Code*, 1851, §§ 454, 485, 1152-1154. ³ *Code*, 1851, § 106.

⁴ For a favorable appreciation of the county judge system, see S. A. Moore, *History of Davis County, Iowa*. The author of this pamphlet had been county judge of this county. Writing in 1876, sixteen years after the system had been abolished, he still favored it.

with the slightest knowledge of democratic antipathy to autocratic power, could prophesy with ease their not remote oversetting.¹ The county judge was to rule for but four years, when a successor might be chosen, but during this period he was little less than a potentate.

Toward the end of the decade, in fact, discontent began to make itself felt. Petitions went up to the Legislature from groups of citizens in many counties, some declaring that the county judge was a tyrant, an autocrat, or the fearful repository of unrighteous authority. Almost none of these petitions mentioned specific cases of corruption or instances of unbridled power, but they were substantially at one in the general principles of their complaint. A petition from Black Hawk county in 1858 put the matter forcibly. It said: "The centralization of such unlimited powers in the hands of a single individual, particularly the power of levying taxes at will, without the expressed or implied consent of the payers—of binding them, as their financial agent, in contracts of which they are ignorant or do not approve—and of arbitrarily expending the public money as his personal interest or caprice may direct—is a policy inconsistent with the fundamental principles of republican government, at all times dangerous and never expedient."² Another complained: "With the county funds wholly under his control, coupled with the power to make that fund as large almost as he may wish, there is no balance save the County Judge's own sense of rectitude to regulate the expenditure of the county." The petitions

¹ Some limitations were placed upon the power of the judge previous to the abolition of the system. See *L.*, 1852-53, c. 72.

² This, with other petitions in the matter, is to be found in Box 40-2235, Vault in the office of the Secretary of State of Iowa. Other counties from which petitions appear are Washington, Jones, Benton, Monona, Bremer, Delaware, Hamilton, Clayton, Jasper, Clinton and Jackson.

called for a divorcement of the administrative power from the judicial or probate duties, the former to be conferred upon a board of supervisors or commissioners, the latter upon the county judge as probate judge only.

At last, after some years of public discussion, the matter was brought to issue in the State Legislature, and in the session of 1860 the Senate committee on county and township organization brought in a majority report for a modified supervisor system, and the discontinuance of the county judge as administrative head. The report was made on February 13. On February 18 it came up for consideration and a spirited debate ensued, a minority report proposing a county judge with two associates chosen from different parts of the county having been framed to fellow the report of the majority. The report of the majority attacked the county judgeship at many points, but primarily and chiefly on the score of its shortcomings as a financial organ. It arraigned the system as "inconsistent with the genius of our institutions, tending, as it does, to centralize rather than diffuse political power." The report admitted that it possessed an efficiency above any other, but asserted that it did not place power where it would always secure the rights of the people. Of the county judge it said, "secure in his own councils, he may prepare the way, and in an unexpected moment strike an unexpected blow that would paralyze and cripple the energies for years."

It argued that the complex authority of the judge tended to unfit him for his probate office. For he is chosen "for his financial ability rather than any attainment that would entitle him to the position of a Judge of Probate."¹ The report of the minority evidently proposed only a mild compromise. The writer has been unable to discover a copy,

¹ The Senate Journal does not contain a copy of this report. It may be found in the columns of the *Iowa City Republican* for February 22, 1860.

but from criticisms in the debates it is evident that the administrative powers of the judge were to be reduced little or not at all, and the only check was to be in the creation of two associates, who should administer the county with him.¹ In the course of the debate particular cases were pointed to in which the system had worked unsatisfactorily, a thing that had been almost wanting in the earlier and more popular complaints. For example, it was asserted that in several counties² contracts for costly public buildings had been made by the judges in defiance of the will of the people, or that the general interest in other directions had been thwarted in equally high-handed fashion. Public opinion was evidently opposed to the system, but it was abolished not without a contest, and in the public expression upon the supervisor system which succeeded it there were instances where a return to the county judge was most vigorously urged.³

The administrative and quasi-legislative functions were transferred to a board of supervisors, consisting of one from each civil township, except in the case of townships having a population exceeding 4,000 and less than 8,000, which were to elect two supervisors, and for each 4,000 inhabitants over 8,000 one additional.⁴ Later this system was substantially modified.⁵ The present system is substantially the

¹ See *Iowa City Republican*, February 29, 1860.

² Woodbury, Hamilton and Polk. See *Iowa City Republican*, issue as above, containing a more than usually extended account of this debate.

³ For example, a petition from Decatur county, containing 422 signatures, filed some time between 1868 and 1870. The reasons given were that the supervisor system had cost the county at least 75 per cent. more than the county judge system, that it was far more inconvenient in its practical working, too slow to meet the wants of paupers, etc. See Box 40-2227, in Vaults of Secretary of State of Iowa.

⁴ L., 1860. c. 46; *Revised Statutes*, 1860, § 303.

⁵ *Code*, 1873, §§ 294, 299.

commissioner system.¹ As probate judge the functions of the county judge continued unabated until 1868, when the circuit court was established. In this year each judicial district was divided into circuits, each of which had its circuit judge, with original and exclusive jurisdiction in probate and some other matters, and a wide concurrent jurisdiction with the district court in civil actions and real property proceedings.² In 1886 the circuit court was in its turn abolished, the judicial districts reorganized and the powers of the circuit court, among them the probate, made over to the district court.³ Probate powers are now exercised by judges of the district court, and in large measure by the clerks of such courts. Thus the last vestige of the county judgeship as a local organ has disappeared, and what remained of the office has been merged in the courts, whose relations bind them more directly to the State than to any local division.

The system had affected the financial and income administration only for the time being, but during its continuance it had moulded local financial policy as little else could have done. Important as a unique chapter in the financial and administrative history of the State, it yet had even less influence upon its subsequent development than did the State Board of Education upon the development of public education, and so, but for the possibilities of government that it suggests, might be considered wholly negligible in any present discussion.

At this point, from which the income administration may be traced along several distinct lines, we shall take up the specific processes through which, since 1850, it has developed in central or local control, examining the several branches historically and analytically, to ascertain the degree in which they have affected the efficiency of government, and the

¹ *Code*, 1897, §§ 410, 411.

² *L.*, 1868, c. 86.

³ *L.*, 1886, c. 134.

measure of their influence upon the social welfare of the people.

III THE PROCESSES OF CENTRALIZATION AND DECENTRALIZATION

I THE SEGREGATION OF SOURCES OF INCOME

The study of segregation or the separation of State and local sources of revenue is of prime importance in the examination of the administrative features of any financial system. Segregation tends to create and clearly define separate spheres and organs for State and for local administration. The State may continue to use the local agencies, and the locality may continue to use those of the State for a time, though this is less usual. But the administrative machinery for the two spheres tends to separate definitely and completely when once the sources of the revenue are made distinct, a process that conduces to a great simplification of the administrative problem.

The place of the peddlers' tax in this connection has been noted, but it remained for the Code of 1851 and later laws to blaze the path of separation. The Code of 1851 provided that foreign insurance companies should be taxed on their premiums for State and county purposes;¹ after 1868 the tax became one for State purposes solely.² But corporations generally were to be assessed upon the shares of stock in the hands of their stockholders. It was but natural that insurance companies should receive a somewhat different treatment from other corporations thus early, as in the revenue laws of the country generally they had been among the first to receive a distinct treatment.³

The law that was to make segregation of material import-

¹ Code, 1851, § 464.

² L., 1868, c. 138.

³ Cf. E. R. A. Seligman, *Essays in Taxation*, pp. 141, 150.

ance, however, was that of 1862, taxing railroads on their gross earnings.¹ At first they were taxed at the flat rate of one per cent. In 1870 the rate was graduated, running from one per cent. on the first \$3,000, or part thereof, per mile to three per cent. on receipts over \$6,000 per mile.² At first a half was given to the State and a half to the counties. Later the counties fared better, being allowed four-fifths of the proceeds, while the State was to be content with one-fifth.³ Nothing, under either law, was to be given to the cities. This fact was to wreck the system and bring about a return to the general property tax on railroads. The law had not been a law for long when the cities began to impugn its constitutionality. Several of them had become important points of railroad traffic with large railroad properties situated within their boundaries, a ready revenue for the support of municipal needs, could the law once be converted to their use. The Constitution of 1857 had provided that "The property of all corporations for pecuniary profit shall be subject to taxation the same as that of individuals."⁴ Armed with this constitutional defense the city of Davenport, receiving its first favorable decision from the Supreme Court of the State in 1864,⁵ pressed its contentions persistently until 1874, when the section was definitely construed and the question of State versus local taxation settled in favor of the cities.⁶ The cities were to have a claim to a proportionate share of the revenue from railroads equally with counties or State. By the narrowest margin a constitutional obstacle was thus placed in the way

¹ L., 1862, c. 173.

² L., 1870, c. 106.

³ *Idem.*

⁴ *Cons.*, art. viii, § 2.

⁵ *City of Davenport vs. M. & M. R. R. Co.*, 16 Ia., 348.

⁶ *City of Davenport vs. C., R. I. & P. R. R. Co.*, 38 Ia., 633. The important case of *Dunlieth & Dubuque Bridge Co. vs. City of Dubuque*, 32 Ia., 427, decided in 1871, presented the general question squarely.

of segregation. Davenport in its first case had received the favorable decision of the inferior court. On the appeal the supreme bench was evenly divided, so that the finding of the lower court was affirmed only by default of majority. In 1872 railroads were made taxable upon their general property for State and local purposes, the assessment to be made by the Census Board or, as it was now styled, the Executive Council.¹

But if the constitutional prohibition against difference in the taxation of corporations and individuals was an insuperable obstacle in the way of the segregation of railroad taxes, there seemed to be every reason to suppose that it would be none the less a check to segregation of other corporation taxes, and that localities were entitled to share with the State in their proceeds. Yet the principle of segregation was continued or from time to time adopted with respect to these other corporations. There was no change of principle in the taxation of foreign insurance companies, which since 1868 had been taxable on their premiums for State purposes only. And in 1897 the principle was extended to Iowa companies, which up to that time had been taxable like individuals. Under the Code of 1897 Iowa companies were assessed one per cent. of their premiums, less losses paid, for State purposes.² Express companies were made to pay solely State taxes only after several decades, though as early as 1868 they were distinguished for a few years from other corporations, being assessed in each locality where there was an office or agency on forty per cent. of their gross earnings for State, county and municipal purposes. The forty per cent. was listed and returned by the assessor as personal property.³ Telegraph companies were taxed in the same way. In 1870, as result of litigation, this law was repealed, the taxes under it remaining unpaid

¹ *L.*, 1872, c. 69.

² *Code*, 1897, § 1333.

³ *L.*, 1868, c. 180.

remitted, and the property of telegraph and express companies was to be listed and assessed for taxation in the same manner "as property belonging to individuals."¹ In 1896, following the recommendation of the Revenue Commission of 1892, express companies were made taxable for State purposes. They were to pay one per cent. on "the entire receipts from business done" within the State.² Telegraph and telephone companies meanwhile had been made subject to exclusive State taxes. In 1878 it had been provided that the Executive Council should ascertain the value of the property of telegraph companies,³ taking into consideration a large variety of items, such as gross earnings, operating expenses, stock, franchises, etc., and on the value so ascertained the council was to determine the rate of the tax, which was to be at the average rate of taxes, State, county, municipal and local, and the taxes so levied were to be in full of all taxes except on real estate and special assessments. This exception does in a minor degree limit the exclusiveness of the State tax.⁴ The Executive Council was required to deduct from the assessment valuation as made by it the actual cash value of the property belonging to the company assessed for taxation in local taxing districts in the State. So while railroads might not be taxed except for the support of all divisions of the government, these important corporations, the insurance, express, telegraph and telephone, were made tributary to the State treasury, and seemingly there was no one to object. This was so chiefly because the values were not so large, so obvious, as

¹ L., 1870, c. 100.

² L., 1896, c. 2.

³ L., 1878, c. 59. This law may be said to include telephone companies, for before the taxation of telephone companies was expressly provided for it was held that the provision taxing telegraph companies was applicable to them. See *Iowa Union Telephone Co. vs. Board of Equalization*, 67 Ia., 250.

⁴ The same thing, to a greater or less degree, is to be said of substantially all the taxes imposed upon corporations for the "exclusive benefit of the State."

were those of the railroads, and the pecuniary interest was not such as to prompt any one to try very spiritedly the legality of the statute. When that special interest appeared, when the knowledge of the locality was fully aroused to the fact that a considerable source of revenue was being lost to it, it might be expected that the protest of the cities in the railroad gross receipts State taxes, which, with the Constitution remaining unaltered, the repetitions of statutes could never lay, would be raised anew.

This was done in Polk county in 1899, in the matter of the State taxation of local insurance companies. There is perhaps no place in the United States where, in a small way, the insurance business thrives as it does in Polk county. The home offices of a large number of life insurance companies of various kinds and of fire insurance companies are to be found in Des Moines, the county seat. Therefore when in 1897 the State Legislature made local companies subject to a tax on premiums, less losses, for State purposes only and provided that such taxes should be "in full for all taxes, State and local, against such corporations or associations, except taxes on real estate and special assessments," the conditions were made that would provoke a new and earnest contest, for, as stated, such corporations had previously been taxed like ordinary citizens, and from them the localities had derived a revenue. Polk county gave no heed to the provisions of the new Code of 1897, but in 1899 went forward and assessed the resident insurance companies on the basis of their stock. Quick to arrest this action, the Hawkeye Insurance Company, an Iowa fire insurance company with head offices in Des Moines, brought an injunction. Again Article VIII., Section 2, of the Constitution was revamped, and the decisions of the railroad cases reaffirmed.¹ The county was entitled to tax

¹ *Hawkeye Ins. Co. vs. French, assessor*, 109 Ia., 585.

as well as the State. The opinion of the court was couched in no uncertain language, and with the exclusive State taxes on insurance companies there now went down the allied taxes—those on express, telegraph and telephone companies.

Thus the last and the conclusive blow was dealt to the segregation of State and local sources so far as corporations are concerned. The spirit of the State Legislatures had been toward separation of State and local sources, to a large extent, from 1862 on. And there is ample room for the opinion that the members of the constitutional convention when framing the section of the Constitution that has wrought such havoc in the laws, intended no such inhibition of segregation as has resulted. There is ground here for a strong argument that judicial interpretation has defeated the public will and the public interest.

From a condition where segregation might have been almost perfect, a condition that would in the opinion of the Revenue Commission of 1892 have meant the entire divorcement of State and local taxes, the Supreme Court has brought the revenues to the plane of almost complete uniformity of revenue for State and locality.

The other steps in segregation need be but briefly noted here. In 1896 the collateral inheritance tax law was passed, the proceeds from which go entirely to the State. The tax on peddlers was transferred to the counties in 1897; though a new tax, that on itinerant physicians, was reserved to the State. These taxes and the various miscellaneous income from State offices, State lands, etc., constitute the only exclusive State resource at the present time.

An examination of the conditions under which the various laws were passed will not as a rule reveal any strong agitation for divorcement of State and local income, but rather a quiet belief that such divorcement would be wise. In the earlier history of these taxes the inherent difficulty of assess-

ing corporations locally seems more than anything else to have been the cause for their particular treatment. This was largely true with respect to the insurance taxes in 1851 and the railroad gross receipts taxes in 1862. In the case of the latter, however, there grew up a conviction on the part of some prominent in public affairs that complete segregation would be a wise financial policy. In 1872 the Governor commented upon the fact that excepting the State, the counties alone through which the railroads ran received the benefits of taxes from them, and recommended that the tax be made entirely a State tax. His main ground was that the counties receiving the taxes were given a double benefit—the presence of the railroads and a revenue from them—while other portions of the State received nothing. For the sake of equity the change should be made.¹ In that year, however, the general property and general source basis was adopted.

The remaining steps toward separation were made under a more definite conviction of the desirability of the policy. This is shown by the telegraph tax of 1878. Governor Newbold had advised some measures of separation in his message of that year. Furthermore the State express and insurance company taxes of 1896 and 1897 were made exclusive commonwealth taxes in compliance with the recommendation of the Revenue Commission. The inheritance tax, on the other hand, was made a State tax, and not a county tax, as the commission had recommended.

We shall glance now at the material effects of the various steps in segregation. And first of the peddlers' tax or license fee. This tax was from the first little regarded by the local or central administration. We find in the early reports many instances where no attention whatever was given to it. Frequent lapses on the part of

¹ *Gov. Mess.*, 1872, p. 7.

the auditors' reports suddenly followed by a sharp criticism of the local authorities and a statement that the tax would be quadrupled if they performed their duties were characteristic. In the first year the revenue from this source was \$222.05 from seven counties.¹ In 1850 it had increased to \$836.58, and the Auditor complained that it would be four-fold what it was if those charged with enforcing the law had done so.² But there was little attempt to make these local officers collect the tax, and in 1863 the Auditor could report that the peddlers' licenses had added to the revenue only \$779.79,³ and for the whole fourteen years from 1857 to 1871 but \$3,787.33 was derived from this source.⁴ The receipts improved somewhat in the following years. For the biennial period ending in 1875 they were \$1,164.58,⁵ but down to 1897, when they were transferred to the counties, they were given very little attention and were insignificant.

When in 1897 the State gave up the peddlers' tax, but undertook to tax itinerant physicians, it was expected that the increase from this tax would not be entirely microscopic. But it has proved so. The license must be obtained from the State Board of Medical Examiners, at a cost of \$250 per year. From October 27, 1897, to the middle of 1899 the income of the tax was but \$2,750.⁶ After that it improved somewhat. From November 14, 1899, to June 19, 1901, it was \$3,000.⁷ It is to be seen thus that the return from this class of taxes or fees cuts little figure one way or the other.

It is hardly possible to make a computation of the effect of the adoption and abandonment of exclusive State corporation taxes. The chief reason is that such taxes have

¹ *Auditor's Report, S. J.*, 1848-49, p. 298. ² *Ibid.*, *H. J.*, 1850-51, p. 9.

³ *Auditor's Report*, 1863, p. 16. ⁴ *Ibid.*, 1871, p. 62. ⁵ *Ibid.*, 1875, p. 9.

⁶ *Treasurer's Report*, 1899, p. 96.

⁷ *Ibid.*, 1901, p. 127.

not usually been large, and often they have continued over a period so brief that comparative results would demonstrate little. The gross receipts taxes on railroads from 1862 to 1872 would illustrate little, as they went in large part to the counties. The taxes on telegraph and telephone companies, with the exception of the taxes on insurance companies, afford the instance of longest endurance of a State corporation tax. Beginning in 1878 they continued to 1900, but the income from them was never large. The heaviest receipts from these companies were for the biennial period from 1897 to 1899, when they totaled, from the telegraph companies \$40,213.89, and from the telephone companies \$18,734.88. Usually the income was in each case \$10,000 below these sums. In this same period express companies paid their first exclusive State taxes, a sum of \$12,179.71. This, together with the telephone and telegraph taxes, equaled \$71,128.48 in a total income to the State of \$5,079,403.29. It is apparent at once that little can be predicated upon so slight a proportionate revenue, and that its discontinuance, with the growth in revenue from other specific sources, and the erratic changes to which State budgets are liable, can hardly be reduced to causal relations. Nor in respect of the State insurance taxes can more be said than that they have increased with great regularity, for they still remain. The law of 1900 hardly did more than remove the interdiction of local taxes on domestic companies. It continued the State taxes on non-Iowa companies, and provided that those organized in Iowa should, while subject to local assessment on capital stock, pay the State one per cent. on premiums, less losses, matured endowments, dividends and legal increase in reserve.¹ The State revenue from this source for the period 1881-1883 was

¹ *L.*, 1900, c. 43.

\$109,087.43. It increased by steady stages until in 1899-1901 it amounted to \$382,165.22.

The receipts from the inheritance tax form more of a basis for estimate. For the period ending June 30, 1899, they amounted to \$52,799.52. For that ending June 30, 1901, they amounted to \$196,464.54, and formed an important item in the State's revenue.¹

But this much can be affirmed of the exclusive State taxes in general: they have in the past tended to form an ever increasing proportion of the State's revenue, and this means that the relative part gathered from the counties has tended ever to decrease. In 1899 it was estimated that during the biennial period then just closed but 62 per cent. of the total State revenue was raised by direct taxes on the individual. The remaining 38 per cent. came from fees, taxation of corporations, payments by the counties for the maintenance of their insane, and other miscellaneous sources.² And this further fact may be averred of any results here achieved, that whenever the taxes have been separated much has been accomplished to clear up the obscurity of the financial machinery, to make more certain and confident the knowledge of who or what pays the taxes. Such results mean the searching out and the removal of the irregularities of the revenue. The repudiation or destruction of segregation means of course just the opposite.

2 STATE ASSESSMENT

In the history of taxation in Iowa the discussion of State assessment follows naturally upon an examination of the separation of sources of income. For when segregation has failed, recourse has been had immediately to State assessment in several important instances, as though no jot of the

¹ *Treasurer's Report*, 1901, p. 9.

² *Auditor's Report*, 1899, p. vi.

central control once given were to be sacrificed except under compulsion. This is a most important fact in the development of the income administration.

But State assessment does in fact begin independently of the question of separation of taxes. Its beginning is rather anomalous. In 1858 an act was passed authorizing general banking in the State. Banks and corporations had been under the ban of the Constitution of 1846, and one of the chief reasons for the constitutional convention of 1857 was to bring about the removal of this restriction.¹ This act of 1858 provided for State Bank Commissioners, to be elected by the Legislature. They were authorized to examine the banks of the State, and, among other things, to ascertain the value of the property of the banks for purposes of taxation.² This system continued for only a few years, until the abolition of State banking.

The next step in State assessment is to be found in the railroads gross receipts tax of 1862. Under this law the gross receipts were to be reported to the State Treasurer, and the payment of the tax should be to him. While report to and review by the State Treasurer is not assessment as that term is understood in property taxation, still it is as near an approximation to assessment as the peculiar character of a gross receipts tax permits. When in 1872 the gross receipts tax was done away with, and the tax on property valuation substituted, the State assessment was maintained. The law provided that the value of the property should be ascertained by the Executive Council and apportioned among the counties and cities according to their single-track mileage.³ From the first the Executive Council has been allowed a considerable leeway in the choice of a standard or measure for its assessment, so that centraliza-

¹ Shambaugh, *op. cit.*, pp. 219 *et seq.*, 302, 329 *et seq.*

² *L.*, 1858, c. 114.

³ *L.*, 1872, c. 69.

tion in this point is no beggarly thing, but is fraught with surpassing importance. The law provided that the assessment should be made upon the true cash value, and stated further that gross receipts should be considered together with "any and all other matters necessary to enable" the board to make a just and equitable assessment. This provision has remained practically unaltered until the present. It has made the method of assessment subject entirely to the will of the Executive Council, and, especially of late years, has provoked the keenest controversy as to the proper basis for railroad taxation. Illustrative of this was the legislative session of 1902, the interest of which was divided chiefly between a bill for a more definite basis for the taxation of railroads¹ and one other, which also concerned railroads. And it is quite generally understood that the reason why the former bill was defeated was that it threatened the discretionary authority and somewhat secret proceedings of the Executive Council. The bill undertook to define what should constitute operating expenses, gross earnings and net earnings, and moreover required that the Executive Council should publish their votes and proceedings and explain their motives for varying from the market quotations of securities in assessing the roads. There is no other branch of the government that at any time awakens such general and acute interest as does the Executive Council during the week or two when it is making the railroad assessment.

In 1875 an agitation began for the State assessment of telegraph, express, "Pullman" car and fast freight companies.² This was strongly advised by the State Auditor

¹ *Senate File*, No. 362, 1902.

² For an interesting recommendation that might be interpreted as looking toward state and local centralization in assessment, see *Gov. Mess.*, 1870, pp. 41, 52.

in that year.¹ The Governors in 1876² and in 1878³ joined in the recommendation, and in 1878 the law was passed providing for State taxation of telegraph companies, the value of the property to be ascertained by the Executive Council. Telephone companies were subsequently included. In 1878, along with telegraph companies, "Pullman" cars were made assessable by the council.⁴ The value was not to be taxed to the owners of the cars, but to the companies over whose lines they were operated, which companies were left to their recourse against the owners. Fast freight lines were not subjected to these provisions until 1902.⁵ Indeed, there had never been a law for their taxation up to that time.

From 1880 to 1892 questions of equalization and assessment were discussed more than at any other time in the history of the State, but there was no outcome of substantial modification. The chief fruit was the Revenue Commission of 1892. When in 1896 and 1897 gross receipts of express companies and taxes on the premiums of insurance companies, foreign and local, were made payable to the State, the effect was of course to place the ascertainment, or at least the review, of the basis of the computation, and so the quasi-assessment, with the State. But the next great advancement was made in 1900, when express companies, telegraph and telephone companies were made subject to assessment for both State and local purposes on property valuation by the State board of review. This was the second signal instance where, when segregation had failed, State assessment stepped into the breach to preserve the central control. These values are ascertained by the Execu-

¹ *Auditor's Report*, 1875, p. 7; 1877, p. 8.

² *Gov. Mess.*, 1876, p. 4.

⁴ *L.*, 1878, c. 114.

³ *Ibid.*, 1878, p. 6.

⁵ *L.*, 1902, c. 62.

tive Council and apportioned to the localities on a mileage basis.

The advantages of State assessment are obvious.¹ It is unembarrassed by the inequalities of local assessment which constitute so great a drag upon almost all the ordinary property taxes, and, rightly conducted, it provides a machinery much better fitted than is the local to ascertain with accuracy the values to be taxed. In those public service corporations whose operations are not confined to a locality, State assessment has in the last score of years been recognized throughout a great part of the United States as the indispensable prerequisite of just and adequate taxation. Indeed, in the taxation of railroads while a consensus as to the proper basis of taxation has hardly been reached, opinion is practically unanimous that when that basis is the general property the assessment must be by the State. Iowa therefore in this respect has done no more than keep step with the progress of the day.

3 STATE EQUALIZATION

From 1850 to the present time the equalization of assessments has been discussed and various measures have been taken, though none very drastic, to improve it. But the problem has always remained a problem. At no time has it been believed that a solution was reached.² Improvements have been wrought; the more crying inequalities of the taxes have often been leveled. But disparities have remained, claims of under- and over-assessment have continued, and the remedy that shall cure these ills still remains for the future.

There are three laws that stand out above all others in

¹ It is interesting to note that the state assessment of railroads was favored and urged by the railroads themselves, while the cities interested opposed it.

² See *Auditor's Report*, 1893, p. 7.

the development of equalization in Iowa. The first is found in the sections of the Code of 1851, which made the first, though an abortive, provision for State equalization. This law provided simply for the equalization of real property values between counties, the equalization to be made by the Census Board. In 1853 specific provision was made for county equalization.¹ In 1857 the second important law was enacted. It succeeded in putting fresh life into the anaemic system that the Code of 1851 had created. It provided only for the equalization of real property values, but introduced an extension in that it specifically required equalization between towns as well as counties. The third principal law is found in the Code of 1897, by which the State board was required to equalize not only real property values, but also personalty. And this law omitted the provision for equalization between towns.

It is not entirely apparent why the law of 1851, providing for State equalization, was not put into execution, but that it was not is measurably certain.² For one thing the Census Board was a new body. Its duties were various, and it was enough of a strain to bring into play those functions

¹ L., 1852-53, c. 69.

² The evidence upon which this statement is based is as follows: (1) The fact that the record book of the Census Board, which was opened in 1851, on the creation of that body, contains no mention of equalization; (2) the fact that the first record book of state equalization dates from 1857; this book is marked "A," and search through the vaults of the Auditor of the State failed to reveal anything anterior to it; (3) the fact that the reports of the Auditor of State or Treasurer of State contain no reference to state equalization previous to 1858; (4) the fact that following the act of 1857, which made more definite provision for state equalization, it was necessary to pass several curative and legalizing statutes to bring the system into operation, statutes which indicate that state and local equalization was a new thing, one not well understood and so but slow to become operative. See L., 1858, c. 90; c. 111; (5) the comments, or lack of them, upon the revenue system, in the newspapers of the day. See *Dubuque Express and Herald*, January 16, 1856.

with which in its general character it was perhaps more intimately concerned than it was with equalization. Moreover, the assessments had not been locally equalized to any appreciable degree, so that central equalization would have been a somewhat artificial proceeding.

At this place we should also comment upon a significant omission from the provisions of the law of 1857, made in 1860. The revenue law of the latter year, while continuing the provision that the State board should equalize between towns, did not contain the detailed specifications of the act of 1857 as to the manner in which this should be done. This was perhaps an augury of the entire abandonment of any attempt to distinguish the value of realty in towns from its value in the county generally, which was to come in the course of time.

But the chief attempt to reform the equalization laws is to be found not in any act of the Legislature, but in the report of the Revenue Commission of 1892. This commission proposed a striking change in the State Board of Equalization, viz., a partial reorganization by enlargement, through the addition of eleven persons, one from each congressional district, whose knowledge of values in their several districts would, it was believed, enable the board to approach more closely to accuracy in the adjustment of the burdens of taxation. But the device of the commission went to the base as well as to the head of the structure. It thought that change was needed on every hand. And so it recommended important alterations in the county equalization. It would have the equalization in the first instance made by the assessors and their associates instead of by the township trustees and town or city councils, who since 1870¹ had exercised this power. It recommended that the

¹ L., 1870, c. 89. If the suggestion had been followed it would have meant a reversion to the earlier system of the state.

county board be left as it was, that is, a board made up of the supervisors, but would require the members of the local boards to attend its meetings for the purpose of affording the county board information in the performance of its duties.¹ Moreover, it recommended that real property should be assessed only every fifth year instead of every second year, as it had been, additional assessors to be appointed to assist in the real property assessment, and, during the years when such assessment was not made, to assist in the equalization. These recommendations failed of enactment, but they are more than a patch-work, and deserve study in any attempt to better the methods of assessment and equalization.

Study of the workings of the State boards of equalization from the beginning of their activities to the present time prompts a three-fold criticism, a criticism of the equalization of town realty values, of the equalization of personalty values, and, in general, of the success, or lack of it, with which they have adjusted gross values as between counties.

The cases in which the State board of equalization has equalized the values of urban realty within a county on a different basis, that is, at a different rate, from the farm values of the county are, according to the records of the proceedings of that board, so infrequent that they might be counted almost upon the fingers of one hand.

At the first meeting of the board, in 1857, there was no attempt at any equalization either of town or county values.² In 1858 the board, having considered the question of equalizing town property, decided that the amounts reported from the counties should remain unchanged, the reason given being that the data were insufficient to justify an

¹ *Report of Revenue Commission*, pp. 12, 13.

² *Record of the State Board of Equalization, Book A*, p. 4.

alteration.¹ But as soon as the data were forthcoming the columns of the reports began to show that town lots were included in the general equalization of the county, that is, the per cent. of decrease or increase was made to apply both to town and county values. This is apparent from 1861,² and is the almost uninterrupted practice from then till 1897, when, the Code having omitted any provision for the equalization of town values, their amount was left as reported by the counties.

It is evident thus that the equalization was in fact no more than a general county equalization. The law was complied with by including the town values in the flat change and by printing these values as reported and as equalized in columns in part distinct from those containing the county values. Thus a formal but no material difference was established. From this general practice there were several isolated departures. In 1869 the board came to the conclusion that in some instances assessments as between county and city property were very unequal and unjust, city property being valued at a high rate and farm lands at a very low rate. But they expressed themselves as uncertain of their power to change the value of the city or county property without changing both.³ At the meeting following, however, they had become convinced of their power, and at that meeting, and in 1871, in several cases they increased county values without increasing those of a city within the county,⁴ or, leaving

¹ *Record of the State Board of Equalization, Book A, p. 11.*

² *Ibid.*, p. 28 *et seq.*

³ *Ibid.*, p. 71.

⁴ In 1869, while the values in Lee county were increased 10 per cent., the values in Keokuk, the county seat, were unchanged. *Record of the State Board of Equalization, Book A, p. 66.* In Clinton county, town lots in 1871 were in general exempted from the increase of 25 per cent., to which county values were subjected. *Ibid.*, p. 83.

county values as reported, they decreased those of the city.¹ These exceptions are so infrequent that they are startling when they do occur, and leave one questioning whether they were not the fruit of some abnormal influence. And soon it appears that the board began to recur to its old doubts. Whether its action had been impeached or extraneous influences had bidden it desist is not apparent. But in 1875 we find one of its members, the Auditor of State, declaring, "The State board is unable to make a just equalization, because no authority is given to change the assessment of a city without a corresponding increase or decrease as to all the real estate in the county."² And he asked for an amendment to the law. However, it was not made more explicit, and from then on there were no attempts to adjust the values of the town on a basis different from those of the county.

The instances of alterations in personalty values are equally few in number, though this has a more legitimate explanation, the fact that such power was not even to be inferred from the law until 1897. But there is evidence in the early proceedings of the board that they were not fully convinced of their inability to equalize such property, although they did not attempt to exercise the power. Thus in 1858 they expressly resolved that the assessment of the personal property should not be altered, a hint at least of a lingering belief in their power to alter it should they wish.³ But whatever doubts they may have had upon the matter must have been set at rest in 1876, when the

¹ In 1869, the Pottawattamie county values were not altered, but the values in Council Bluffs were increased 25 per cent. *Ibid.*, p. 66. See also cases of Keokuk and Dubuque in 1871, when, though county values were changed, values in these cities were left as reported. *Ibid.*, p. 82.

² *Auditor's Report*, 1875, pp. 5, 6.

³ *Record of the State Board of Equalization, Book A*, p. 11.

Supreme Court stated, though the statement on this point was *obiter*, that the State board had no power to alter personal property values.¹

Recommendations of the Revenue Commission and others² having in 1897 brought about both the law for the change of real property values by the State board and that providing that it should add to or deduct from "the valuation of each kind or class," the board took the matter up at an early meeting. On July 27, 1898, the board adopted a basis for the equalization of the various classes of live stock.³ But on July 30, after extended discussion and consideration of the personal property assessment, the board resolved that in the absence of sufficient information any changes would be inexpedient that year. And the Auditor was instructed to prepare schedules of inquiries to be submitted to the county auditors for the purpose of furnishing the board with information in succeeding years sufficient to permit of a just review of the real and personal property assessment.⁴ But in no instance do the records contain specific reference to personal property values other than those of live stock.

Finally in 1899 an adjustment of live stock values was undertaken; this was repeated in 1900. But in 1901 there was no change.⁵ The values were left as reported from

¹ *Harney vs. Board of Supervisors*, 44 Ia., 203.

² In 1885 the State Auditor strongly recommended state equalization of live stock values, but the Governor believed it infeasible. See *Gov. Mess.*, 1886, p. 4. The recommendations of the revenue commission were strongly to this end, but they also urged the equalization of other personalty values.

³ *Record of the State Board of Equalization, Book B*, p. 152. ⁴ *Ibid.*, p. 153.

⁵ LIVE STOCK EQUALIZATION.

	<i>Reported actual value.</i>	<i>Adjusted actual value.</i>
1899	\$143,988,006	\$144,290,970
1900	167,461,261	167,726,884
1901	173,363,731	173,363,731

the counties. Meanwhile no change whatever was made at any time in the values of other personalty. And the failure to adjust such values has been reported quite as a matter of course, without explanation or comment.¹

The equalization of personal values other than live stock is thus left open, and such values remain, as they have been throughout the entire history of the State, unaltered by any except the local boards. Moreover, the failure to adjust even the live stock values in 1901 seems to threaten if not a discontinuance, at least a broken continuance, of any equalization whatever of personalty. Perhaps it might be urged in defense of the omission in 1901 that the two adjustments preceding had tended to bring the live stock values to something like a correspondence to their true value, but such an explanation is hardly adequate.² A better one would be that the board with its

¹ See matter-of-fact footnotes to tables in *Auditor's Report*, 1899, p. 160; 1901, pp. 155, 196.

² Taking several of the more conspicuous cases of alteration in valuation by the board, it is found that:

Values on heifers one year old were increased as follows in 1900:

	<i>Reported average value.</i>	<i>Per cent. increase.</i>	<i>Adjusted average value.</i>
Butler county	\$13.58	30	\$17.65
Hancock county . . .	12.28	40	17.10
Palo Alto county. . .	12.00	40	16.80

In 1901, when there was no change, these values were reported: Butler Co., \$15.80; Hancock Co., \$12.02; Palo Alto Co., \$12.05.

Values on bulls were decreased as follows in 1900:

	<i>Reported average. value.</i>	<i>Per cent. decrease.</i>	<i>Adjusted average value.</i>
Johnson county . . .	\$46.02	20	\$36.70
Mills county.	47.86	20	38.29
Muscatine county . .	46.25	15	39.32

In 1901, when there was no change, these values were reported: Johnson Co., \$44.95; Mills Co., \$44.16; Muscatine Co., \$43.61.

These illustrations might be multiplied indefinitely. They show not only something of the need for equalization in general, but that equalization once begun must be continued. The involuntary change of one year does not insure voluntary justice in the assessment of the next.

present facilities finds it wholly impossible to investigate adequately values of that elusive and unstable character that personalty possesses, and so has deemed it best to place reliance upon those most nearly advised—the local assessors. But to admit that, is to admit weakness in the board and a need of its reorganization.

From the foregoing discussion it is evident that an estimate of the general results of the equalization of the State board can be merely an estimate of the adjustment of general real property values between counties. First custom, then law, has made impossible the special consideration of city and town realty as such. And the two years in which live stock values have been equalized throw but the faintest glimmer of light upon the general question of the equalization of personalty values. But the numerous important adjustments made in that brief season indicate that the need for such action was a very present one. They indicate, moreover, that the State board when it has a will to perform its duties can accomplish much.

It is but natural that we should find in the earlier proceedings of the State board greater changes in the percentages of decrease and increase than are found in later years. Property values were less stable, the system of valuation less accurate in the early years.¹ For the first years the increase or decrease sometimes was as high as 50 per cent. In 1863 the values of real property were increased in Allamakee county 50 per cent., while in Buena Vista county they were decreased $33\frac{1}{3}$ per cent. The values in Boone and Harrison counties were increased 50

¹ For cases illustrative of the instability of values and imperfections of assessment in the earlier period, before state equalization, see *Auditor's Report*, 1848, S. J., p. 133. There were tremendous variations in some cases. In Scott county, in 1856, there were assessed 30,000 acres of land less than had been listed in 1855. *Auditor's Report*, 1856, p. 161.

per cent. in 1865; in Franklin county they were decreased 40 per cent. But nowadays even the exceptional changes almost never exceed 25 per cent., while as a rule, if there is any change whatever, it is below 10 per cent.

The sum total of the adjustments in real estate values between counties has been much to the advantage of the State. From 1870 to 1901 the reported values were increased at every equalization, except in 1900, running in amount from a sum under a million to over sixteen millions. This part of their duty the board have performed with a fair degree of success, though it is doubtless true, as the Revenue Commission of 1892 believed, that they have not increased the values of real estate proportionately with the enhancement of their actual values.¹ But if much has been done in the equalization of real values between counties, practically everything remains to be done in their adjustment as between towns, and towns and counties, and in the adjustment of personalty values. One need search no further than the report of the Revenue Commission for proof of this.²

4 STATE CONTROL OF LOCAL ADMINISTRATION

If segregation has not been adopted by a State, or has been provided for or enforced in such a way that certainty has not been secured or responsibility located in the administration of the finances, or if State assessment or State equalization has failed to encompass these ends, there yet exist possible measures whereby they can be realized in greater or less degree. The local administration may be brought to a higher plane of efficiency. This will be attempted in one or both of two ways, either by legislative direction or by administrative supervision and

¹ *Report of Revenue Commission*, pp. 13, 14.

² *Idem.*

control. The former is the method usually adopted in the United States, notwithstanding its many defects. It is the method that has obtained in most cases in Iowa. So the discussion of central administrative control will be in large measure rather an account of what might have been, but is not.

When the State has drawn to itself the immediate administration of its revenue, of course the local administration is to that extent dispensed with. In Iowa at the present time the central assessment of express, telegraph and telephone companies eliminates their local assessment, and any equalization; the payment of insurance taxes direct to the State treasury eliminates local collection to that extent. And in the past, when at various times telegraph, telephone, express and railroad companies paid taxes only to the State, and transacted the revenue business with State officers solely, local administration of such taxes was in all respects annulled. At the present time, however, there is a wide local administration, and in consequence there abound many opportunities for central direction. The assessment, the primary equalization, the collection and the enforcement of the general property taxes on individuals and on many corporations are in large degree methods of local administration. And in the railroad, the telegraph, telephone and express company taxes the only work of administration not performed by the locality is the assessment and, resultantly, the equalization. Moreover, in the inheritance taxes, because of their peculiar nature, the State has found it economical to make some use of county officers, so that even in this important State tax local administration has a leading place. We shall examine first the administration of the property taxes, and afterwards that of the inheritance tax.

To the question, what is and what has been the State

control of the local administration of the general property tax, outside of the State equalization and the State assessment of the values of the several corporations noted, the answer in general must be that there has been none. The history of the central control in this respect is a negative history. But from the standpoint of recommendations, of legislative effort and plans, it has its positive side. And these will shed some light upon the particular problems of administration here involved.

The most striking fact in the history of this opinion is that the central control of local assessments has never been seriously considered. States have often placed much reliance upon this device, but in Iowa it has been passed by. It has been neglected more than scorned, and it is probable that under favorable conditions and a winning presentment it might attract many adherents. The paramount object of almost every effort to secure a better local administration has been to insure the prompt collection and payment into the treasury of the sums due from the counties on the general State levy. It has been believed by many that the best means to bring this about was to make the counties absolutely responsible for the State levy. This amounted to a proposal for legislative and judicial control. The second, and the only other important means, suggested with any emphasis or at all continuously for the betterment of the relations of State and local organs in matters of finance has been that of a central inspection or direction of local accounts, or the two of these instrumentalities combined. This proposal, like that for the responsibility of the counties, has had in view chiefly the better security of the State income. But with it there has been linked at times a secondary purpose, which now and then has become of almost equal importance with the other. This purpose has been the betterment of county and city finances for

the sake of the county and city, and not merely for that of the State. And in this fruitless discussion is to be found the nearest approach that has been made to the central audit of local accounts. To some extent the means taken from time to time to render more dependable the local credits and the local securities, do of course affect the State finance. But as this effect upon it is entirely secondary they will be given but brief attention.

About the earliest phenomenon in the financial history of the State was that of county delinquency. The laggard payment, or the absence of any payment whatever, had from the very outset cost the State a pretty penny. And so from the beginning the State began to consult its interests, asking what improvements could be made in the local administration of the finances. In 1852 the Auditor could report that there were counties that had not settled with the State in from four to eight years preceding, that is, there were cases where they had not even settled with the territorial government, not to say that of the State.¹ The first vigorous step to better the finances was in 1857, when the Governor was authorized to appoint agents to examine the accounts of the school fund commissioners.² The looseness of these officers and the consequent losses to the school fund had become notorious, but the reports made upon the investigation were probably a surprise to all but the best informed. Still there was not much improvement in this fund. In 1864 the Legislature attempted to provide for the gradual return of the school money to the State treasury, but the retention of it was left to the discretion of the county supervisor,³ and succeeding laws did not follow the slender precedent. Before and following this

¹ *Auditor's Report, H. J.*, 1852-53, Appendix, p. 3.

² *L.*, 1857, c. 162.

³ *Gov. Mess.*, 1866, pp. 12, 13.

act there was an agitation for the return of the funds to the State. Governors, financial and school officers advised it on occasion.¹ The State Auditor found the accounts in almost inextricable confusion. The chaos that the school fund commissioners had left to the county judge administration had been affected by the medley of powers of the county judge and his assistants only to make confusion worse confounded. Special investigations were undertaken by local officers from 1864² to 1867, and frequently the county clerk had to report to the State Auditor that it would be mere guess work to go back of the reports for the year 1866.³ In 1862 began the law by which counties were to be made responsible for the school fund.⁴ The project of transfer to the State having failed, this was the only means left to secure the fund against loss. But accounts were in disorder; there was the probability that a way of escape would be found from many liabilities by the counties. In 1869, therefore, the State Auditor recommended that he, or some one appointed by him, be authorized to visit the counties and unravel the tangled accounts.⁵ This recommendation was repeated in 1871, and in 1872 the responsibility of the counties for the interest on the fund was further enforced, and the Auditor was authorized to employ agents to visit the several counties of the State whose school fund accounts remained unadjusted and under his own direction⁶ effect a complete settlement of such accounts. A deputy was designated from the Auditor's office to do the work. Some forty-four counties were visited.

¹ *Auditor's Report*, 1867, p. 117. *Contra: Auditor's Report*, 1871, pp. 111, 112. In 1870 the Governor repeated this recommendation, which had been made by his four predecessors. *Gov. Mess.*, 1870, p. 43.

² *Auditor's Report*, 1865, p. 47.

³ *Ibid.*, 1867, p. 76.

⁵ *Auditor's Report*, 1869, p. 98.

⁴ *L.*, 1862, c. 148.

⁶ *L.*, 1872, c. 86.

The aggregate amount gained to the fund by these settlements was reported as \$21,837. And the Auditor, in 1873, stated that his report of that year contained the first "full and satisfactory statement of the actual entire available assets of the school fund" in the history of the State.¹ A few years afterwards the official statement was made that the school fund was in prime condition.²

This investigation of 1872 seems the only case where there has been a special central examination of local accounts. School funds were subjected to a certain central administrative supervision some years after county responsibility had been provided for. It was provided that where school funds to a certain amount could not be loaned in a particular county the fact could be certified to the Auditor of State, who should order their transfer to some other county or counties where they could be loaned. But it is obvious that this was more by way of assistance to, than control of, the county.³

The success of county responsibility for the school funds and its tendency to clarify and simplify the accounts, gave State officers the clue for improvement in the county care of the State levy, and a similar responsibility for the proceeds of such levy was urged. In 1873 the Auditor advised that the counties be held responsible for the full State levy, and that to offset any loss from deductions on account of erroneous assessments they be given all the income from penalties on delinquent taxes, sales of published lands, peddlers' licenses, "and all other additions to the original

¹ *Auditor's Report*, 1873, pp. 108, 109.

² *Ibid.*, 1877, p. 23. The gradual diminution in the proceeds of the fund has been due to the falling rates of interest rather than to fault in the local custody, though the falling rates have made the loaning increasingly difficult.

³ *Code*, 1897, § 2856.

amount derived from other sources.”¹ And now, to the middle of the decade 1890-1900, hardly a biennial period passed that both Auditor and Governor did not urge county responsibility in one form or another.² But the Legislature opposed the rising tide of official opinion; no change was made, and the county delinquencies still continue.

Though the means for the improvement of the local administration most favored was that of responsibility, there were throughout many recommendations for central control, or at least central inspection, of local accounts, all of which were equally fruitless. In 1860 Governor Samuel J. Kirkwood urged that special examiners be appointed in the counties to examine the accounts.³ The State Auditor in 1862 recommended that the law prescribe the forms of county accounts or give the Auditor authority to prescribe them.⁴ Recommendations of a like intent followed.⁵ In 1882 a very remarkable bill, entitled “A Bill for a Public Examiner,” was introduced in the House of Representatives.⁶ This bill proposed a stringent system for the examination of the accounts of public officers, State and county. The public examiner was to prescribe and enforce a system of book-keeping and accounts by treasurers of State institutions, and by State and county treasurers, and visit them and inspect their books. He was to have the same powers to enforce the giving of evidence in the performance of his duties as belong to courts of law, and

¹ *Auditor's Report*, pp. 98, 99. County responsibility was urged much before this, but the agitation did not become persistent till about this time. See *Gov. Mess.*, 1862, p. 6.

² *Auditor's Report*, 1897, p. 6, states that these delinquencies in 1893 were \$654,056.84; in 1895, \$863,032.86; and in 1897, \$971,644.08.

³ *Gov. Inaugural*, 1860, p. 7; *Gov. Mess.*, 1862, p. 6.

⁴ *Auditor's Report*, 1861, p. 32.

⁵ *Gov. Mess.*, 1872, p. 37.

⁶ *House File*, 1882, no. 377.

several other important powers were to be given him. The bill failed, but the Governor in his message of 1884, referring to this general project, strongly urged the creation of a body of treasury inspectors.¹ The Governor's recommendation, however, seemingly inspired little comment, favorable or otherwise.²

Little more was said upon the matter until 1899,³ when the State Treasurer advised provision for treasury inspectors, who should inspect both the State offices and the offices of the county treasurers. He called attention to a number of defalcations and embezzlements which might not have taken place if the State had been protected in this way.⁴ The Treasurer's recommendation met with the fate of its predecessors, and central control or audit of local accounts still remains an unaccomplished desideratum.

Of the local finance as distinct from the State—though indeed local audit has its inevitable influence upon that of the State, and local expenditure is to a large extent merely delegated State expenditure—much may be said that is favorable.⁵ This is due in part to the careful limitation of the debt-creating and the borrowing and funding powers of the local divisions and to the comparative rectitude of the average public servant of the State. The laws whereby it has been sought to promote economy and sound credit in the city and town finances have been legion. But all have provided for legislative, there has been almost no administrative, control. Administrative control was once or twice championed by legislator or State officer, but in

¹ *Gov. Mess.*, 1884, p. 39. ² *E. g.*, *Iowa State Register*, Jan. 16, 1884.

³ See, however, *Gov. Mess.*, 1890, p. 33.

⁴ *Treasurer's Report*, 1899, pp. xxv, xxvi. Note also his criticism of the lack of system in respect to various offices of the State, and the lack of unification of financial methods.

⁵ *Cf. Gov. Mess.*, 1890, p. 33.

each case its advocacy proved futile. In 1870 the Governor constituted himself an inspector of local finance, and, issuing circulars to the several political corporations of the State, succeeded in gathering material for a general estimate of local indebtedness, a thing that had not been done with any thoroughness before, and that has seldom been attempted since. During or after these investigations he became aware that pretended bonds of the unorganized county of Lyon had been offered for sale repeatedly in New York city, and he asked that he be given power to bring those guilty of the fraud to justice.¹ In his next message, prompted by this instance of fraud, and the many cases in which bonds, the validity of which had been disputed, were issued, he submitted to the Legislature the propriety of enacting a law in which the bonds of cities, towns and school-districts should be registered by the Auditor of State upon proof of their legality and security.² It is not apparent why he omitted counties.³ His successor made a similar recommendation, including counties in his proposal.⁴ But even this slight measure of administrative supervision met with no favor, and the means employed to improve the local finances and the local securities were legislative.¹ Slight qualifications of this statement are to be derived from such powers as those of the State Auditor to issue requisitions for information and accounts, or the State board of review to levy taxes to pay the bonds of counties, cities, towns or school districts when final judgment has

¹ *Gov. Mess.*, 1870, pp. 32, 33.

² *Ibid.*, 1871, p. 37.

³ *Ibid.*, 1874, pp. 45, 46. And see criticism of conditions, in *Auditor's Report*, 1877, p. 20.

⁴ In 1876 members of the boards of supervisors in counties having over 4,000 population were made personally responsible for an issue of bonds beyond the constitutional limit. See *L.*, 1876, c. 125. The Governor in 1878 advised that the rule be extended to cities, towns and districts. *Gov. Mess.*, p. 32.

been obtained and the proper authorities of such municipal corporations fail to make the levy.

The development of the State inheritance tax law illustrates more forcibly than most things in the history of the finances what administrative improvement can do to advantage the revenue. Several changes in the local administration and additions to the central administrative control have increased the income from this tax in a high degree.

The first two years the returns from the tax were very meagre. From July 4, 1896, to July 1, 1897, only five estates were reported to the treasury department as liable to the tax, and nothing was paid into the treasury in that time. During the second year some additional estates were reported as discovered, but by April 6, 1898, only fifty had been recorded, and the total amount of the tax paid in about two years amounted to but \$3,567.08.¹ The cause of this failure was inquired into. It was pointed out that the administrator, executor or trustee, the judge of the district court, the clerk of the court, the Treasurer of State, each at some period in the process of the descent of property, though chiefly the court, was charged with some responsibility. And though the probate or administration and settlement of an estate is not a difficult process, it is often one of many steps and many formalities, so that when complexity in the administration of the tax was added to the inherent complexity in the execution or administration of estates, confusion and the destruction of responsibility might be expected. The Treasurer of State, the officer most concerned in the matter, maintained with much force that the cause of the difficulty was the "lack of responsible, central and systematic control and supervision of the enforcement of the law."² He pointed out two means of

¹ *Treasurer's Report*, 1899, p. xxxvii.

² *Ibid.*, 1897, pp. 44, 45.

improvement, that of giving the Treasurer power to act directly or that of devolving the collection of the tax upon the county officials, with a right to a commission on the amount collected to secure their zealous performance of the duty. Or, he said, parts of both plans might be employed. He preferred the first.¹ He was also of opinion that there were grave constitutional objections to the administrative functions that the law required of judicial officers, and would have them relieved of all such duties.² His criticisms were later confirmed in part by the Attorney-General and supported by the Governor.³

In 1898 a law was passed for the better administration of the tax.⁴ It was provided that the chief justice of the Supreme Court should appoint five judges of the district courts to meet with him for the purpose of framing uniform rules and regulations relative to the assessment and collection of the tax, these rules when made to form a part of, and be published with, the rules of the district court. Clerks of the courts were to report lists of heirs and real estate to the treasury department, as were county attorneys to the Treasurer. In this way the supervision by the Treasurer was increased. The county attorney was to be allowed a fee for his services. He was to assist in collecting the tax under the direction of the Treasurer. Thus the administration was affected both at the center and in the locality. The fact that the rules for the assessment and collection of the tax were to be framed by a body of judges, and that such rules were to have the status of rules of judicial procedure in what was, from the point of view of the State at least, purely an administrative matter, was a denial of the recommendations of the Treasurer, who had wished

¹ *Treasurer's Report*, 1897, p. 52. ² *Ibid.*, pp. 45, 53. ³ *Ibid.*, 1899, p. xxxvii.

⁴ *L.*, 1898, c. 37.

to separate the judicial and administrative services. But the rules adopted were in a large measure successful. One in particular, that providing for the appointment of regular inheritance tax appraisers, met the hearty approval of the Treasurer.¹ And too much stress is not to be laid upon the combination of administrative with judicial functions in this case, for the interests of private law are, in any question of inheritance, perhaps more crucial than the interests of public law. The interests of heirs, devisees, legatees, executors and administrators are concerned at the same moment that the public revenue is, and it is not surprising that those officers, the judicial, who everywhere are made the guardians of private rights should be charged with a part of the powers of control.

The results of the amendment were immediate and gratifying. The revenue from inheritances increased by leaps and bounds.² The Treasurer was alive to this improvement. At the same time he was able to point out instances in which the income fell far short of what it should be. He pointed out that if county clerks and attorneys failed to make the reports, nothing could be done by the State Treasurer, and the treasury was to this extent at their mercy. He advised that executors, trustees and administrators be required to certify to the State Treasurer such parts of their reports as he might demand.³ This was provided for the following year,⁴ and the Treasurer was given an important control over the fees to be paid the county attorneys. In the event of uncertainty or conflicting claims as to the fees due county attorneys he may determine the amount due, to whom payable, and when due, and so far as possible the determination is to be made in

¹ *Treasurer's Report*, 1899, p. xxxix.

² *Ante*, p. 187.

³ *Treasurer's Report*, 1899, pp. liii, liv.

⁴ *L.*, 1900, c. 51.

accordance with the rules fixed by the Treasurer. But another and a more vital recommendation was passed over. The Treasurer here, as in the case of local accounts, asked for a corps of treasury inspectors who should examine into the inheritance taxes in the several counties. The suggestion failed of adoption, and there seems no immediate prospect that the law will provide for these officers.

IV CORRELATION OF THE PROCESSES OF CENTRALIZATION

In the foregoing pages the phenomena of the finances, or, more particularly, of the State income administration, have been traced in some detail, and it has been shown that certain broad tendencies are discernible, shaping powerfully the administration of the public finance. Looked at from the standpoint of centralization—that point of view from which the problems of administration can be best understood—it is observed how close is the correlation of these forces. Judicial decision stands out as the correlating medium. Judicial decision has grievously arrested the course of a healthful separation of State and local sources of revenue, with the attendant prospect of a simplified administration and a greater certainty in taxation. But as judicial decision has destroyed, it has also been the occasion of the discovery of forces which to a degree have served much the same purpose as segregation. These forces are State assessment, State equalization or State control of the local administration.

To-day State assessment is the most effective feature of the central revenue administration in Iowa. Equalization, though potentially effective, has been of little avail in practice. With a better organization it might accomplish far more than it has. The State control of the local administration, used as yet only in the inheritance tax, and there, though not fully, with good effect, has not been given an

adequate test. But it is an expedient rich in promise, and might well employ the zeal of those interested in the financial problem.

The outlook for the future with present laws continued promises no advantage over the past. Indeed, with the destruction of the State taxes on telegraph, telephone and express companies by the courts, and the highly discretionary assessments of the Executive Council to be dealt with, it is probable that revenue controversy will fret the State for many a day. And over all there continue still the great unsolved problems of the general property tax.

But under changed laws and a changed social attitude, a greater stirring of the public interest, improvement could doubtless be made. And these changes would partake in no degree of the odium of reform, for they would be merely old measures or old recommendations made definite, thorough and safe. First of all the State should rid itself of those bonds which restrict the assignment of particular sources of revenue to central or local government. This would require a constitutional amendment, but that is not difficult in a State. To its own freedom and power as a government the State owes this change, and when once accomplished the way will be opened to many betterments. This is not the place for the full advocacy of measures of betterment, but the history of the finance of Iowa must make it appear to the least attentive student that the reorganization of the State board of equalization, the strengthening, modifying and extension of its powers, perhaps the central control of local assessments and the central audit of local accounts—not to speak of a multitude of minor ways of advancement—would make fairer, sounder and more vigorous the finance, and so would improve the social and industrial welfare of the State.

CHAPTER VI

CONCLUSION

THE examination of the laws and documents of the State, of official messages and reports, of public opinion, of the operation and results of administration, bring into prominent relief two cardinal facts in the development of administrative policy and tendency in Iowa. They are these: That while prizing its privileges of local self-government, the local division, be it township, city or county, has never gone to the length, familiar in some of the older States, of making its self-rule a tocsin to be sounded on the slightest threats of encroachment. And the second is that from the very first there has been a willingness to see the State administration exercise authority when it has been made clear that the State was by nature better fitted than the locality to serve the public interest. These are tendencies. They are not rules that will fit every fact in the development of the administration. And they have their exceptions. But exceptions and departures are to be ascribed as much as anything to the obstacles that the structure of government, inevitably patterned after that of the sister States, has imposed. Legislative centralization and administrative decentralization, these are the characteristics of the American State, and in these Iowa has shared. But in the course of time the second of the two, administrative decentralization, has been in a measure corrected. Legislative centralization continues, though administration by the Legislature, of which numerous instances are to be found in the earlier

history of the State, is not so often known at the present time.

If it were attempted to examine all the branches of the administration together, with a view to making a general statement concerning the development of central control, it would be noted that down to the year 1862 substantially every branch except public education was decentralized. In that year the tax on the gross receipts of railways for State and county purposes opened the way for a degree of centralization in the income administration. A rather weak addition is made in 1880, with the creation of the State Board of Health, but the gradual increase, in other directions, of detail in the State control is sufficient to establish this year as the beginning of one of the three or four important periods. The creation of the Board of Control in 1898 makes a pronounced addition, and finally the years 1900 and 1902 witness important extension of the State control of education and health. It is to be observed that the centralization of charities and corrections, so far as they were assumed by the State, and of the health administration come comparatively late. But this is largely due to the later development of these functions of government as such.

The student of administration will remark the absence of State administration in the realm of the police, in general poor relief, in the care of highways and in several more minor directions. Knowing of the rôle that prohibition of the manufacture and sale of intoxicating liquors has played in the history of the State, he will immediately ask if the State did not itself attempt to secure the enforcement of these laws by agents under its immediate control. Prohibition has led to the development of State police in some other States. In Massachusetts, where such a development took place, the State police were continued even after pro-

hibition was done away with. They were constituted a sort of State detective corps. But in Iowa the idea of enforcing the prohibition laws through other than the local police seems never to have been entertained. This does not signify that the function of police protection and regulation has been deemed a local function. On the contrary the local political corporations have not been held responsible for the actions of police officers engaged in the performance of these duties. The courts have expressly said that they represented the State alone, and that the locality could not be held liable for breach or wrong by them.¹

The absence of State administration of the poor relief would seem to be, in the light of the history of some other States, in large part attributable to the absence of a State pauper class. In the coast States, or those where large cities and large numbers of immigrants are found, frequently the State has to care for the destitute and incapable who have not gained a local residence. Such conditions have not existed in Iowa. Moreover, the poor laws have always been stringent in their provisions that the responsibility shall rest with the county, and that the county if it fails to transport the pauper beyond the State's limits shall itself become responsible for his maintenance. And placing the burden thus upon the county, the State has been disinclined to go a step further and dictate how that burden shall be borne. The time is now ripe, however, for some central control in this matter. The condition of the poor-houses and poor farms demands direction from without. The question of poor relief has more than a local meaning. It has a broad social bearing.

¹ See *Lahner vs. Town of Williams*, 112 Ia., 428, and cases cited. In *Easterly vs. Town of Irwin*, 99 Ia., 694, it was said: "In the matter of enforcing its police regulations, the city acts as an agent of the State in the discharge of duties imposed by law for the promotion and preservation of the public good, and not as a mere private corporation in the management of its corporate concerns."

Nothing has been done in the way of State management of highways. Since the incoming of the railroads, for the supervision of which it may be noted a commission with broad powers was provided, that has been subject to more criticism, favorable and otherwise, than any other in the United States, little or nothing has been done by the State for State roads. Previous to the railroad period a great body of the legislation had to do with State highways and special highway commissions. But the subject of good roads is now one of constant public agitation, and it may be that in due time the attention of the Legislature will be invited to some project for centralization in their management.

State administration has not been known to Iowa in these classes of cases, yet the State has been among the pioneers in some others. The most conspicuous of these is the State Board of Control. But ten States have adopted this high degree of centralization in charities and corrections. And the board created by Minnesota in 1901 was confessedly based upon the Iowa plan. The law by which it was enacted follows with remarkable fidelity that providing for the Iowa board. Another important instance of almost original legislation in central administration was the law providing for the central supervision of milk dealers in the larger cities.

Centralization has led to the entire exclusion of local administration in some cases. In others it has led merely to the central supervision of local authorities. Of the possible methods of central control of local authorities practically all except two are employed. The issuing of rules and orders dealing with affairs locally administered is most conspicuous in the case of the State Board of Health; the decision of appeals, in the case of the State Superintendent of Public Instruction; the administration of local affairs

when local authorities fail to perform their duties or perform them in an unsatisfactory manner, by the State Board of Health, and by the Board of Control in its relation to local institutions where the insane are kept; the central endorsement or accrediting of functions performed locally, in the work of the State Board of Educational Examiners, and the High school section of the State Teachers' Association, while the making of reports, diffusion of knowledge, and, to some extent, the holding of inquiries, are to be found in almost every branch of the administration examined. But the methods of granting money by the State upon condition that certain requirements shall be fulfilled, and the approval of the acts of local authorities as a prerequisite to their validity, have been employed to no measurable degree in Iowa. The former method is a principal one in England, and it has been used with good results in a number of American States. Under a proper adjustment of the school support it might be used with telling effect in the school administration of Iowa, and possibly in some other branches. And the suggestion is not an idle one so long as the school fund exists or bills are introduced for State aid to public schools. The second of these methods might find its place in the State supervision or audit of local finances, were that advance to be made.

Of course more than a simple ascertainment of the spheres within which the State and the local control are to be severally exercised is essential to responsible and efficient administration. There are questions of tenure of office, of the degree to which under-officials shall be subordinated to their chiefs, of the bi-partisan or non-partisan character of the particular board or office, of the relations of the administration to the Legislature, to the Executive and to politics. These have been largely considered in the preceding chapters. Long terms of office have been

established for the members of the Board of Control and for the unpaid Board of Health. In the school administration, however, the administrative head, the State Superintendent, is elected for but two years, though he is usually re-elected. And one would almost say that the administration of the taxes continues to be a political rather than an administrative service, so far as the central control has been organized. To the problem of the appropriate degree of subordination of ministerial officers or those who exercise discretion, within an administrative branch, the Board of Control has given an answer in a large measure successful, while the question of the relation of administration to politics has perhaps been more nearly solved here than elsewhere.

Of the relative merits of unpaid non-professional and salaried professional service the experience of Iowa affords some test. Both systems have been and are employed. The present adjustment is, all things considered, comparatively satisfactory. Unpaid non-professional service failed notoriously in the administration of charities and corrections, and the change to the paid central board worked an immediate advancement. The members thereof because of their judicial or administrative experience may be said to be professionally fitted for their work. In fact in the majority of administrative boards and offices, other than the heads of departments, an informal professional equipment is necessary. Members of the State Board of Health are all professional; members of the State Board of Educational Examiners are largely so; the State Dairy Commissioner, as the statute reads, must have a professional training for his office; and, descending to the lesser offices, some, such as inspectors of mines and oil inspectors, are appointed only upon examination or in accordance with the restrictive regulations of a central board. In the case of the State Board

of Health is found an instance of unpaid professional service. But the secretary, who acts as the executive agent of the board, is paid. The boards of trustees of the educational institutions are in their general composition non-professional and unsalaried. They are allowed mileage and a per diem at the present time, though in the earlier history of the state the per diem was wanting. These boards have not been entirely successful; their dependence upon the state legislature and political manipulation have sometimes led to unfortunate results.

The economic causes and justification of central control are almost obvious. The growth of population, the increase of wealth, the elimination of distance through easier communication, have all tended to extend the community of interest beyond the boundaries of the local division and made the state in many ways almost the administrative unit. So late as 1868 it was said that but one-sixth of the lands of the state were enclosed.¹ And in 1870 there were counties having less than a hundred inhabitants that had been organized ten years previously.² And as in other states, local communities, even families, were in the earlier period the economic units and almost self-sustaining. But thirty years have changed all this, and now there is no other state in which so large a per cent. of the soil is under cultivation, and few so uniformly settled. And with growth has come a measure of differentiation and the division of labor.

The tendency to centralize is pronounced throughout the United States at the present time. In the year 1901 alone more than forty new state offices or boards were authorized by the various state legislatures, and the principal features of legislation in regard to state government were the increase in these state agencies, the centralizing tendencies in

¹ *Gov. Mess.*, 1868, p. 11.

² *Ibid.*, 1870, p. 32.

respect to them, and the increased expenditure for the purpose of state administrative organization.¹ Thus the movement is one of present and future import. Its future extension in Iowa is most probable. Questions will constantly arise to provoke its consideration. For example, the subject of interurban street railways has within the last year or two engaged the attention of the legislature, and it can not be said that the questions of administration involved have been settled. There are those who believe a measure of state administrative regulation will be necessary. The novelty and complexity of the questions involved are such that there is likely to be a deal of legislative regulation, which is nothing less than legislative administration. To any one who examines the charters and ordinances upon which many of the local railways rest their franchises, which local companies are chiefly interested in the interurban lines, it will become clear immediately that the questions which are to arise will probably fail of a satisfactory settlement if attempt is made to solve them solely in the General Assembly without administrative intervention. The case of Des Moines may be taken as an illustration. Here no less than a dozen charters and charter modifications now appear in the city ordinances, at least all nominally affecting the consolidated franchises of the present sole occupant of the city streets (a company that is extending its lines to the near-by towns), though it is likely that not more than one or two of these charters would be relied upon for the company's rights in the last resort, if the matter were to be brought into litigation. The city hardly knows what its rights are in the premises, the state is even less informed of its interests. The question then is an urgent one,—can the public interests in the interurban railways be conserved through other than

¹ *Review of Legislation*, 1901, New York State Library, *Bulletin* 72, pp. 16, 18.

administrative inquiry and regulation on the part of the state? For the interurban line is assuredly of more than local interest. And this is a single illustration of the manner in which the question of state administration arises and will continue to arise. Many others might be cited, particularly in the branches of administration already established.

The future of state administration in Iowa will depend upon many things. Constitutional amendment will be necessary if the taxes are to be made to subserve the highest public interest. A gradual change, a change already perceptible, in the attitude of the legislature concerning the proper subjects of legislative control will be necessary. How often has it been noted in the course of this study that legislative administration is inexpedient, that it tends to violate the principle of the separation of powers of government, and approaches the unconstitutional. We can find in the early history of the state instances where a legislature has actually gone the length of contracting for the lease of a penitentiary, and the example is but one of many. The instances of minute restriction, legalization, formulation of administrative practice by the legislature can be numbered by the hundred—all to a greater or less extent perversions of the legislative function. It is believed that the tendency is steadily away from this, and therein lies a hope of betterment.

But to the fuller realization of efficiency, responsibility and independence in administration something more than constitutional amendment, or changes in legislative method, or a greater perfection of the details of the administrative organs themselves will be necessary. There will need to be a more perfect fashioning of the structure, and a better understanding of the service of the political party. For the political party is as much an organ of government as any

branch recognized in a constitution.¹ To some it may seem that admission of the need of change here puts administrative progress beyond the realm of the possible. But this is not so. For the very fact that there has been a degree of centralization has put in operation subtle forces which will tend to change the position of the party. One part of a governmental machine cannot be materially altered without affecting every other. There are certain functions of government that should be secure from political interference. The judicial function has been universally recognized as such an one in Anglo-Saxon countries. To this may be added "the *quasi*-judicial function, the statistical and semi-scientific functions, and the function of establishing, preserving and developing the governmental organization."² To a degree certain of these functions have been removed from politics in Iowa. What is the result? To that degree the function of the party has been reduced to narrow bounds. Reduction means concentration, intensification. It means that the play of political forces will become more intelligible to the popular eye; it means greater publicity of political activities, hence greater responsibility or responsiveness of the party to the popular will. In the second place there has been a measure of transference of administrative control from locality to state. This has a vital meaning. Under a decentralized system the elector undertakes to control both the state and the local government, and ends by controlling neither. That local choice of state servants is in some cases wise, is to be admitted, but that that choice when made shall be with knowledge of the real character of the service to be rendered, and that the local agent of the state shall be amen-

¹ Frank J. Goodnow, *Politics and Administration*, pp. 16, 17, 18; H. J. Ford, *The Rise and Growth of American Politics*, p. 220.

² Goodnow, *op. cit.*, p. 79.

able to the state's administrative organs—these things are imperative. And it is these things that centralization tends to accomplish. It is impossible here to follow out in detail the full effect of centralization and of the clear definition of spheres of State and local government on politics.¹ But enough has been said to indicate their salutary tendency. Of course these things alone will not make the political party all that it should be,—the sensitive exponent of the will of the state. In America the co-ordination of the expression and the execution of the will of the state is made outside the organization of government, and the means by which the party may be made fully responsible are not easy of ascertainment. Among these means are improvement in election and primary laws, in registration, in the control of parties by the courts; but one of the chief, if not the fundamental means, is that found in the centralization of administration and the nice adjustment that results through it in the relation of township, city, county and commonwealth.

¹ For a full discussion of this important subject see Frank J. Goodnow, *Politics and Administration*.

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TURGOT AND THE SIX EDICTS



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TURGOT AND THE SIX EDICTS

BY

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PREFACE.

THE bibliography appended to this work is intended to be a complete compilation of all the works of any consequence which relate directly to Turgot. There are some important omissions even in the comprehensive and classified bibliography compiled by Dr. Lipperts and published in the *Hand- und Lehrbuch der Staatswissenschaften*, I. Abteilung: Volkswirtschaftslehre, 2 Band., 1 Teil., 1902. The bibliographies appended to the relevant chapters in the *Histoire Générale*, while reasonably complete with regard to French writers, also omit some of the important works in German and English.

The list of references quoted in this monograph is a short one, for it has been my aim to make the fewest references consistent with the criticisms made and positions taken.

In issuing this monograph, my chief regret is my inability to impart to the wide circle of English readers the pleasure experienced in translating and interpreting the Six Edicts of Turgot which have not hitherto been translated into English. My study of history and teaching of the subject were partial and imperfect for lack of earlier knowledge of these documents which have so great significance in the events that led up to the French Revolution. Not having learned the French language at this earlier period, any comprehensive knowledge of Turgot's works was naturally out of the question. Believing heartily that history is the true *Hilfswissenschaft* to clearer knowledge and interpretation of ourselves and our times, I hope before long to contribute to historic insight and economic knowledge by translating all the important writings of this master mind in economics and in statesmanship. A wider critical and comparative estimate of his doctrines and his work than is possible here will then be in order.

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PART I
BIOGRAPHICAL AND HISTORICAL

CHAPTER I

BIOGRAPHICAL NOTICE

"ANNE-ROBERT-JACQUES TURGOT, Baron de l'Aulne, Minister of State, Honorary Member of the Academy of Inscriptions and Belles-Lettres, and the youngest of three sons of Michel-Étienne Turgot, *prévôt* of merchants under Louis XV., was born in Paris, May 10, 1727. His family, which came into Normandy at the time of the Crusades, is regarded as a branch of the family of the same name in Scotland. And the origin of the latter is obscured in the night of time, if his biographers are to be believed, for they assign its ancestry to Togut, a Danish prince who lived 1000 years before the Christian era, and they also include in the number of its members St. Turgot, abbé of the monastery of Dunelm, one of the most distinguished men of his age, and Prime Minister to the Scottish King, Malcolm III."¹

Timid, shrinking and bashful in his childhood, he was regarded by his mother as an idiotic creature, until later development caused her to revise her judgment. According to the custom of the day, Turgot's father destined him for the church, and in preparation for such calling he was sent for elementary instruction to the College of Louis le Grand, later to the Academy of Plessis, and for his professional studies to the Seminary of St. Sulpice. Leaving this institution with the degree of Bachelor of Theology, he was admitted to the Sorbonne for residence and study preliminary to securing his license for holy orders. He had already determined not to pursue the calling of an ecclesiastic, and while at the Sorbonne the composition of an

¹ Daire, *Œuvres de Turgot*, vol. i, p. 6.

essay on *The Existence of God* showed him to be at such variance with orthodox standards that he voluntarily withdrew from communion and ceased attending mass. He was religious after the order of Socrates, too religious to conform to practices which mocked his reason. These considerations, together with the wider knowledge of ecclesiastical conditions, caused him to turn to the magistracy with the determination to find therein the means of his greatest usefulness to his fellows and his nation.

The death of his father summoned him from the Sorbonne to self-support and self-reliance. He sought and obtained a subordinate position in the Court of parlement, shortly found a better place in it, and on the exile of the body and the institution of the Maupeou parlement, he was invited to a seat therein. Having no sympathy with the contentious spirit of the banished magistrates, he promptly accepted the place, sought and obtained appointment as a Master of Requests, and discharged the duties of that judicial position for about seven years. He had sought that place for two reasons: it gave him the best possible opportunity to become familiar with current legal principles and practice, and from that body of Magistrates the Intendants were customarily chosen for the different provinces. It was to this end that Turgot had worked; his mind was filled with theories of administration and reform, and he was naturally eager to put his theories into actual practice; he had pronounced the judgment in an address at the Sorbonne that "well-timed reform alone averts revolution," and his quick human sympathy, his warm patriotism, his deep conviction of the final sovereignty of "Justice, Order, Progress," and his confidence in himself, urged him to forego his inclinations to scholarship and research for the more irksome toil of practical administration.

In 1761 he was made Intendant of the province of Limousin, known later and popularly as the Généralité of Limoges. This province lay next south from the Généralité of Paris, part

of its territory, in fact, lying in the latter Généralité and subject to the parlement of Paris. No province of France was better fitted than this one for the experiment Turgot had in mind; within it, on a small scale, were found all the difficulties common to the national administration, and many of the difficulties were found in Limousin in their most exaggerated form. Its inhabitants had suffered all that could be suffered from the evils of the times, both natural and administrative. If Turgot could demonstrate here the reasonableness and practicability of his ideas of reform, the example might, at least, spread from this central location to all parts of the kingdom. And Turgot's ambition led him no farther than this, but it fixed him here. When the administration heeded the appeals of Turgot's mother and offered him a like ministry in an easier place, he politely declined it. In Limousin would he work out, as best he might, his ideals for all the nation, and the allurements of personal ease and comfort were impotent beside the allurements of demonstrating, at whatever cost to himself, the possibility of his fatherland redeemed and restored to humane principles of government, rationally administered and perpetuated.

For thirteen years Turgot held this place. As Intendant he was answerable directly to the Royal Council and immediately to the Minister of Finance, to whom he reported and whose orders he executed. As the virtual governor of the province, he enjoyed wide opportunity for individual initiative and direction, the chief requirement of the Minister of Finance being that he provide his apportionment of the tax budget; ways and means were of minor importance to the crown. Indefatigable in his activities, the only recreation and relaxation he permitted himself was the companionship of his friends among the *économistes* and *philosophes* on the occasion of his annual visits to the capital. These kept him in touch with the currents of thoughts then rife, and afforded him the opportunity of sharing with his friends his triumphs of administration and verified theories of economic reform.

On the death of the king and the accession of Louis XVI, Turgot was called to the Council of State as Minister of Marine; after but a month in this service, the king summoned him to the most important work, at that time particularly, in all France, the work of reforming the finances of the kingdom from the chaos into which they had fallen under the administration of M. l'abbé de Terray, and Turgot became Controller-General of Finance. Before he consented to accept the position, Turgot requested and was granted a private audience with the king, and not all French history, if any other, records a more important and momentous interview than this.

On the one hand was the monarch, inheritor of the absolute authority won for the crown by his predecessors, a youth who desired, above all things else, to be as a father to all his people, and who was willing to exercise his authority to the utmost to this end; on the other was the scholarly philosopher, trained and tried by more than twenty years of public service, a man of infinite resources, who had put his theories of needed reform to the test of actual practice and successful issue, an embodiment of philanthropic ability; this authority and this ability were by this interview joined by solemn compact into a beneficent power having but one object—the regeneration of the nation. The interview was a protracted one; the man laid before his sovereign, with skilfully worded delineation, the awful condition of the internal affairs of the kingdom, mapped out the plans which alone might avert disaster and revolution, pledged himself to know no person or condition in holding faithfully to the plans agreed upon, and in return was given the most solemn pledge of personal friendship and official support by the youthful king, who trusted himself implicitly to the wisdom of his minister. The letter of Turgot to the king, written immediately after their conference, is one of the most important and unique documents in governmental history.

France passed in judgment before that compact. All orders and all classes looked upon the power it constituted and con-

demned it; historians say that the recall of the parlement from its long exile was the first fatal mistake of Louis XVI. It was no mistake, it was inevitable. Not otherwise could *parlement* be measured. It, with all the forces of France, must look upon Benevolence in rule, and approve or condemn it, and so pass judgment on itself.

Twenty months sufficed for judgment. The Six Edicts were the most conspicuous and general instrument of judgment. When all France had judged itself, the king too, last of all, might turn aside from the instrument of reform and put in the time whatever way he would till the decapitation. No power in the universe could avert the Revolution.

Turgot was retired from public life on May 12, 1776. In his youth he had said, "Our family die of gout at about fifty." He had experienced the pangs already of this hereditary enemy. On March 18, 1781, he died.

This, in brief sketch, is the outline of one of the most successful lives in human annals. "In early years, the life course was deliberately chosen, against paternal solicitude and much seductive persuasion by his friends; it was prosecuted despite the blandishments of literati and savants, and his own deep-seated inclination to the pursuits of scholarship; it was persisted in for others' sake, though demanding tremendous labor and sacrifice from the man himself; it was honestly cherished, hand-in-hand with a boy king, in the face of an angry and scornful nation, and carried to fulfilment. If such a life be not a success, and most of his biographers agree that it was a failure, then, surely, some definitions need to be revised. Even though his work was undone before his eyes, and bitter tears wrung from other eyes than his alone, that was not his failure; it is a failure of which France has bitterly repented. He truly came, as Carlyle says of him, into the Council of the King with a whole peaceful French revolution in his head. He offered it to France, he urged it with all the arts of reason and humanity, he counted not himself, pain-racked and ostracised, too great a

price to pay for the salvation of his land. He was true to himself and to the mission he conceived to be entrusted to him till he was thrust out to solitude and death. What more successful thing than this can any mortal do?

CHAPTER II

THE PLACE OF TURGOT IN THE HISTORY OF ECONOMICS

OUTSIDE academic circles, Turgot is not widely known. Embodying as he did many of the best characteristics of racial manhood and trustworthiness, he transcends national boundaries and would fill, with wholesome results, a far larger place in the public mind than has been accorded to him in the past.

To the economist, interest in Turgot centers in him as a factor in the economic interpretation of history, and in his contributions to the literature and facts of economic science. So much of his work had to do with permanent principles rather than with changeful social forms that the interpretation of his doctrines becomes most timely and helpful to the practical economist of the present; his economic theories are of like interest to the economic philosopher; while his relation to his contemporaries and to subsequent history and literature is of fundamental value both to the historian of economics and to the student of economic history.

Hitherto the interpretation of Turgot's economic doctrines has been based largely on his *Réflexions sur la Formation et la Distribution des Richesses*, the first known attempt to separate for study these related economic phenomena. The controversy over Turgot and Adam Smith was waged chiefly over Smith's knowledge and use of the *Réflexions*; it alone was counted worthy of translation in Lord Overstone's list of rare and valuable economic treatises, and in Ashley's edition of economic classics; Daire places it first in his arrangement of Turgot's works, and it is unquestionably the best known and most discussed of all Turgot's writings; it shares with his

Éloge de Gournay the reputation of his best contributions to the literature of economics.

It is quite probable that no one would be more surprised than the author at the conspicuous place accorded to this bit of writing. In a letter to Dr. Tucker, written in September, 1770, Turgot says: "That bit was written for the instruction of two Chinese who are in our country and to make them comprehend more clearly some questions which I addressed to them concerning the economic condition and constitution of their empire."¹ As an economic primer for foreigners whose minds were of necessity almost a blank concerning the topics of most absorbing interest in their strange surroundings, the *Réflexions* would serve an admirable purpose. And there is every reason to see why Turgot, who was almost continuously absent from Paris and busy with his work as Intendant in Limousin, would attempt to make these foreign youths acquainted with the doctrines of the Physiocrats, by whom they were surrounded in Paris, and to withhold from the instruction, in large measure, the points of radical difference between himself and the Physiocrats, and which could not well be elaborated within reasonable space, and especially for those whose minds were largely a blank on the economic topics so rife in Paris.

The primary purpose of the *Réflexions* was to equip the Chinese to impart information intelligibly, rather than to impart economic information to them. In a letter to Caillard, written in May, 1774, Turgot explains to his friend that in the proposed translation of the *Réflexions* into German, they ought properly to be introduced by a preface in which it should be stated that "the pamphlet was not intended for the public but to serve as a preamble to questions concerning the economic constitution of China, and addressed to two Chinese whom it was desired to put in condition to reply to the questions; and that that letter having been confided by the author to M. Du

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 802.

Pont, editor of the *Éphémérides du Citoyen*, he inserted it in his journal."¹ In his letters to Du Pont, in 1770, published by Schelle² and translated by Ashley,³ Turgot roundly scores Du Pont for presuming to edit the *Réflexions* before publishing them separately, and for making them read according to Du Pont's ideas of what they ought to say rather than what was actually said; he repudiates some of the phrases and ideas added to the *Réflexions* by Du Pont, and insists that in the face of all their imperfections it is incumbent on a writer to be himself and not another.

Now if historical criticism in literature means anything, these facts ought to be given place in the interpretation of the *Réflexions*; they serve, partly at least, to account for the disparity in composition between the *Réflexions* and Turgot's writings for maturer minds, and especially for the lack of the clarity characteristic of all his public documents. Turgot is by no means the only writer to obscure his meaning when attempting to be unusually simple and elementary. In another letter to Caillard, dated March 16, 1770,⁴ Turgot asks that his manuscript of *Richesses* be sent to him, for, said he, "There is on page 96 of the December issue of the *Éphémérides* a phrase which I find to be obscure and unintelligible. I suspect that two or three lines are omitted, and I am unable to supply them." It would be a most valuable textual find if this manuscript could be produced.

Early in his career he turned his attention to economic investigation, and his essay written to a fellow-student as an outgrowth of a conversation, on paper money, is of more than passing interest. At some time, probably during the period of his labors as a magistrate, he wrote a carefully reasoned essay on Value and Money. This essay, of which but a frag-

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 832.

² Schelle, *Du Pont de Nemours et l'École Physiocratique*, pp. 26, 128.

³ Ashley, *Economic Classics, Turgot*, p. viii.

⁴ Daire, *Œuvres de Turgot*, vol. ii, p. 811.

ment is preserved, demonstrates both his logical methods of reasoning and his conclusions at that time concerning that fundamental phase of economics. The Six Edicts, including the preambles and the defense of them against the criticisms of Keeper of the Seals, M. Hue Miroménil, are his last contributions of importance to the literature of the science. In the twenty-seven years intervening between his first attempts at economic discussion and his last, he found time to compose many comprehensive treatises on different subjects, but those on economic topics are by far the most important and of most permanent interest.

In the interpretation of his doctrines and theories, it is especially interesting to note how admirably they illustrate the cycle in which human events and conditions are wont to move. With all the changes in economic relations, new systems and new industrial principles, it is not without surprise that one finds many of Turgot's arguments timely and pertinent to present conditions. One paragraph in the report of the Anthracite Arbitration Commission,¹ reads almost like a quotation from Turgot's argument on the suppression of the *jurandes*, and it is not altogether without significance that conditions which demanded the iteration of principles then demand reiteration of the same laws now.

Another fact must be borne in mind in the interpretation of Turgot's economic doctrines, and that fact is of such a nature that it renders that interpretation vastly more difficult than would be the case if Turgot had been a mere publicist, elab-

¹*Anthracite Arbitration Commission Report*. The paragraph reads: "The right and liberty to pursue a lawful calling and to lead a peaceable life, free from all molestation or attack, concern the comfort and happiness of all men, and the denial of them means the destruction of one of the greatest, if not the greatest, of the benefits which the social organization confers. This all seems too plain for argument. . . . Our language is the language of a free people, and fails to furnish any form of speech by which the right of a citizen to work when he pleases, for whom he pleases, and on what terms he pleases, can be successfully denied." March, 1903.

orating his doctrines with scholarly exactness, and leaving a printed record of his thought. He did this, but he did more. In a very unique and real sense, his whole life was devoted to the elucidation of economic principles. In his mind, clearly enough, political and social evils, and many religious ones too, were directly traceable to false economic doctrines embodied in the laws or administrative execution of them. To him, reason was the fundamental fact of economic interpretation and application. His appeal by voice and pen, and public effort was to reason. He thought he discerned in economic privileges the insulation on either side of which the potentials were accumulating so rapidly and powerfully that, if contact were not soon established and the interplay of forces directed along safe lines, an explosion must come which might involve the obliteration of the insulation and much besides. Precisely for the purpose of penetrating this dead wall of economic privileges, the Six Edicts were promulgated. The well-studied purposes and well-tried principles of which they were the concrete embodiments will be discussed later; it is sufficient for the present to note that Turgot gave his life with full abandon to the elaboration of these principles, and that the interpretation of his doctrines requires much more than mere literary criticism, for his writings were but the sparks struck out from the fire burning within the man, and his deeds are of equal importance with his executive documents.

Turgot's place in the history of economics has been variously construed in later times, from Léon Say's verdict¹ that "he is the founder of our present political economy, and, by the freedom of labor which he bequeathed us, he has stamped our century with its most distinctive mark," to Oncken's opposite opinion² wherein he assigns Turgot a distinctively subordinate place. The final judgment is yet to be made.

¹ Léon Say, *Turgot*, p. 13.

² Oncken, *Geschichte der Nationalökonomie in Hand- und Lehrbuch der Staatswissenschaften*, 2 Band, I. Teil, pp. 449, 459, 463.

Some misconceptions may be banished by a more general knowledge of all of Turgot's economic activities; some may be made to appear wholly untenable by assembling known facts of his relations with other economists, while others may never be resolved. Of the first class is his relation to the physiocrats.

This relationship is somewhat complicated because of the disagreement between Turgot and his biographers and the English and German economists. It is unquestioned that Turgot held warmly to some of the doctrines of the Physiocrats; the readiness and lucidity with which he set forth these doctrines in the *Éloge* of Gournay shows not only familiarity but sympathy with them. With scarcely an exception, the writers who have occasion to refer to Turgot class him with the Physiocrats, and the more exact ones place him in the Gournay school rather than in that of Quesnay. Léon Say flatly declares that Turgot remained a Physiocrat until the end of his days.¹ Higgs, on the other hand, while including Turgot among the Physiocrats whom he discusses, acknowledges that Turgot always refused to identify himself with that school. The whole question must be decided according to whatever basis of division and classification one chooses for himself. Over against all that may be said by others of Turgot, his own words ought to be placed as partly, if not chiefly determinative. Du Pont states that he very frequently said: "It is the sect spirit that makes enemies to useful truths. If an independent man states modestly what he believes to be the truth, if Reason be with him, we listen to him; if we find him in the wrong, we forget him. But as soon as savants surrender themselves, in pride, to constitute a body and to say 'we,' and believe themselves able to give laws to public opinion, thoughtful public opinion revolts against them, wishing to receive laws from truth only and not from authority."²

¹ Léon Say, *Turgot*, p. 62.

² Dupont, *Œuvres de Turgot*, pp. 47 ff.

Turgot left no comprehensive reasoned statement of his economic theories. The *Éloge* makes it clear that he held with Gournay to the principles of free labor, free industry, and free trade in grain; his essay on *Valeurs et Monnaies*, a fragment only of which is preserved to us, if indeed it ever was a finished production, shows his agreement with Galiani in tracing value to a psychological basis, finding it a phenomenon peculiar to man and not in nature outside man himself. He frankly acknowledges himself in hearty agreement with Trudaine both as to the nature and incidence of taxation; he tries to establish a distribution of value according to reason, justice and equity, but scarcely mentions the *Tableau Économique* which the followers of Quesnay regarded with almost superstitious reverence. He held, in common with all the Physiocrats, that land alone yielded a net product over and above the labor and capital expended upon it, but Turgot held these positions not as a physiocrat, nor did he accept them because they were cardinal tenets of a school; on the contrary, with a striking individualism, what he held he first passed with rigorous independence through his own mind, and accepted his own reason and conscience as final. And these are not the characteristics of a partisan. While he was admired by all his friends among the *philosophes* and *économistes*, he, in turn, venerated Quesnay, honored Mirabeau, tolerated and criticized Galiani, and sincerely loved Gournay and Trudaine. It was natural for them to claim him as one of their school, and equally natural for him to hold aloof from all societies in proportion as they were capable of binding or determining his intellectual or moral positions. This course could have no other effect than to weaken his hold upon that great class of minds which yield allegiance more readily to institutions than to ideas.¹ He would think for himself, and

¹ Soulavie, *Mémoires Historiques et Politiques du Règne de Louis XVI.*, t. ii, p. 277.

persuade others to his thought if he could. And such men are not easily classified and identified with sects and schools.

Turgot's relations with Adam Smith have been discussed with all the fervor of personal interest and heated chauvinism. The controversy has almost passed out of the impassioned stage, and yet here again it is plain that the last word has not been said. To the orthodox economists of France, Turgot holds the same place that Adam Smith does to English and American economists; priority of doctrine, and Smith's possible indebtedness to the Physiocrats and Turgot, have been vigorously discussed in three languages. Interest in the discussion had about disappeared entirely, largely because the old material had been so well worked over that little remained to be said, when Cannan published, in 1896, some hitherto unknown data, and by his own historical and critical introduction to the work gave the subject a new lease of life, and kindled into warm glow the embers of forgotten fires.

The new material was in the form of elaborate notes of Smith's *Lectures on Jurisprudence*, covering the topics Justice, Police, Revenue and Arms. The lectures were delivered at the University of Glasgow some time before Smith resigned his professional duties in 1763, and later than 1760. They forecast in great part his subsequent monumental work on the *Wealth of Nations*. Cannan has given painstaking care to the comparative analysis of the two works. His introduction contains an admirable summary of the present status of the controversy, from one point of view. We take the liberty of quoting here rather freely from the passage relevant to our theme. Of Smith and Turgot, Cannan says:

"Du Pont de Nemours said, in his haste, of the *Wealth of Nations*, 'everything that is true in this respectable but tedious work in two fat quarto volumes is to be found in Turgot's *Reflections on the Formation and Distribution of Riches*; everything added by Adam Smith is inaccurate, not to say incorrect.' At a later period he repented of this outbreak, and

confessed to a certain want of knowledge of the English tongue which had prevented him from appreciating Smith's work as he ought to have done. But down to quite recent times, if not to the present day, writers of authority have often expressed belief that *Wealth of Nations* owes much to Turgot's *Reflexions*. Du Pont's learned and able biographer, as lately as 1888, permitted himself to speak of 'the care with which' Adam Smith 'omits to quote' the principal works of the physiocrats and 'especially that of Turgot.'

"For the particular accusation, indeed, that Adam Smith does not acknowledge his obligations to Turgot, there never was much foundation. He certainly does not acknowledge obligations; but had he any to acknowledge? Turgot's book, though written in 1766, was only published six years before the *Wealth of Nations*, and then only in the French periodical *Éphémérides du Citoyen*. As this was not in the Advocates Library at Edinburgh in 1776, and is not among the collections of Adam Smith's books which Dr. James Bonar has catalogued, we are not justified in assuming that Adam Smith had so much as seen the work. The internal evidence is of the weakest possible character. To rely on general similarities of doctrine in such a case is childish. Such similarities are constantly found in the writings of contemporary authors who can not possibly have been acquainted with each other's works. The coincidence is to be explained by the fact that in literature, as in everything else, the same effects produce the same causes (*sic*). There is surely nothing surprising in the fact that two men who have read the same books and observed the same events, should occasionally use the same arguments and arrive at the same conclusions. Something much more definite is needed, and no serious attempt has ever been made to supply it, by pointing out particular passages in *Wealth of Nations* which appear to owe anything to the *Réflexions*.

"Myths of this kind, however, die hard, and if the lectures had remained unknown, the statement that Adam Smith made

much use of the *Réflexions* would probably have been repeated from text-book to text-book for at least another half-century. But as it now appears that the resemblance between the *Réflexions* and the Lectures is just as close as that between the *Réflexions* and the *Wealth of Nations*, and as the *Réflexions* were not even written till after Adam Smith had ceased lecturing and had seen and conversed with Turgot, it may be supposed that the enthusiasts of plagiarism will now seek to show that instead of Smith stealing from Turgot, the truth was that Turgot stole from Smith."¹

To those who have neither inherited nor acquired a personal, party, or national interest in this controversy, the vigor and earnestness of Cannan's observations are somewhat puzzling, and one is led to question if his zeal has not played sorry tricks with his memory. Familiar as he is with Bonar's Catalogue of Adam Smith's library, he must know that Bonar states unequivocally that he catalogued not more than two-thirds of the books in Smith's library before it was divided among his heirs,² and that if McCulloch's estimate of the number of books in the library be at all accurate, the catalogue only contains two-fifths of them. At any rate, with one-third of the books omitted, no valid conclusion can be drawn concerning the books Smith did not have. And Cannan must also have known of the intimacy existing between Hume, Smith and Turgot, for the correspondence between Hume and Turgot as grouped and published by Ashley³ was published in Burton's Hume,⁴ in the Letters of David Hume by Hill,⁵ and in Anderson's translation of Léon Say's *Turgot*.⁶ More than three years before the *Réflexions* were published

¹ Cannan, *Notes of Lectures by Adam Smith*, Intro., pp. 23 ff.

² Bonar, *Catalogue of Adam Smith's Library*, p. viii.

³ Ashley, *Economic Classics*, pp. 101 ff.

⁴ Burton, *Hume*, pp. 350 ff.

⁵ Hill, *Letters of David Hume*, p. 87.

⁶ Léon Say, *Turgot*, p. 56.

letters of familiar intercourse passed freely between them; and although Rae stoutly affirms¹ that in the absence of records from either side of the channel there could have been no correspondence between Smith and Turgot, both Neymarck² and Condorcet³ speak of it. Furthermore, it is known that Turgot and Hume corresponded during 1770; that in September of the same year Turgot sent a copy of the *Réflexions* to Dr. Tucker,⁴ and that at least one copy of the *Réflexions*, bound separately, was in England, and in the possession of one of Smith's friends, six years before the *Wealth of Nations* appeared. It must be presumed, also, that Cannan forgot that in the same letter to Dr. Tucker, Turgot mentions his astonishment that "in a country enjoying the liberty of the press you are almost the only author who recognizes and understands the advantages of free trade, and who is not led astray by the puerile and sanguinary delusion of a self-centered exclusive commerce;"⁵ that in March of 1778, less than two years after the publication of *Wealth of Nations*, Turgot writes to Dr. Price of "the system of monopoly and exclusion which controls in all your political writers on matters of trade (I except M. Adam Smith and Dean Tucker), the system which is the active principle of separation between you and your colonies."⁶ These letters of Turgot are translated in the work on Turgot by Stephens, and published a year before the *Notes*. These evidences, taken in connection with the known intimacy between the men and their kindred interests, seem to justify a directly opposite conclusion from that drawn by Cannan, that "we are not justified in assuming that Adam Smith had so much as seen the work."

¹ Rae, *Life of Adam Smith*, p. 204.

² Neymarck, *Turgot et ses Doctrines*, vol. ii, p. 332.

³ Condorcet, *Vie de Turgot*, p. 201.

⁴ Daire, *Œuvres de Turgot*, p. 802.

⁵ *Ibid.*, pp. 805 ff.

⁶ *Ibid.*, pp. 805 ff.

Again, in stating that "no serious attempt has even been made to supply it, by pointing out particular passages in *Wealth of Nations* which appear to owe anything to the *Réflexions*," Mr. Cannan seems to have forgotten the really serious and successful attempt to do that very thing by Dr. Leser in 1874. And overlooking Dr. Leser's work, the Introduction to the *Notes* missed many valuable references which the author makes¹ to the passages mentioned here, and many others of equal value. But in the elaborate and numerous parallelisms compiled by Dr. Leser, and those which may yet be made in re-examining Adam Smith's work for the purpose of tracing his independent or borrowed Physiocracy, the "enthusiasts of plagiarism" may prove nothing definite, for it is improbable that any more palpable evidences of "unconscious cerebration" may be discovered than that which is apparent between Cannan's own words, quoted herein, and the language of Rae in his life of Adam Smith, pages 203 and 204, concerning this same "Turgot myth," and it is wholly unwarrantable to assume that Cannan is indebted to Rae.

Further, in concluding that "the resemblance between the *Réflexions* and the *Lectures* is just as close as that between the *Réflexions* and the *Wealth of Nations*," Cannan is in direct and striking conflict of judgment with Hasbach who is no less friendly to Adam Smith than is Cannan. In his discussion of the evidence given by the *Notes*, Hasbach says, "For the gaping chasm between the *Lectures* and the *Wealth of Nations* there is no other explanation than that Smith, while associating with the Physiocrats, was led by a study of their works to assume a more friendly attitude toward Locke and Hutcheson, and thus gradually to oppose the views of Montesquieu."²

A careful reading of the *Notes* does indeed disclose striking

¹ Leser, *Begriff des Reichthums bei Adam Smith*, pp. 79-92, and note 2, p. 86.

² Hasbach, "Adam Smith's Lectures," in *Political Science Quarterly*, vol. xii, p. 692. (For this latter conclusion see also Puynode, *Études*, p. 48.)

similarity between Smith's conceptions of the nature, scope, and function of political economy as contained in the two works. Before Smith visited France he assigns political economy¹ to a subordinate division of Police which he makes a subdivision of Jurisprudence. In the *Wealth of Nations* this position is maintained clearly in the Introduction to book iv. Throughout his writings, Smith seems to have conceived of political economy as essentially political, a sort of guide and hand-book to the legislator. This conception he certainly did not get from the Physiocrats nor from Turgot, nor does he seem to have changed in this respect from his meeting with them, and his better knowledge of their works. Hasbach questions if Smith was not rather harmed than helped by his contact with Physiocratic doctrines, by losing in a measure the "historical objectivity" which characterized his earlier work,² and Ashley thinks Smith acquired some ideas and nomenclature from them which he was unable to use in the way they used it.³

The fact must not be lost sight of that Smith was essentially a theologian of the "natural school," a moral philosopher by training and profession; that his approach to economics was wholly from the side of morals and that his lectures on Natural Theology, Moral Sentiments and Jurisprudence were parts of a comprehensive course in Moral Philosophy.⁴ Hasbach says: "The *Lectures* show us in a most unambiguous way that Adam Smith worked from 1760 to 1764 entirely within the limits of the Scotch moral philosophy; he had not yet at that time undertaken to separate the science of law from that of economic conditions."⁵ It seems rather that he never undertook to

¹ Cannan, *Notes of Lectures by Adam Smith*, pp. 154, 157.

² Hasbach, "Adam Smith's Lectures," in *P. S. Q.*, vol. xii, p. 695.

³ Ashley, *Economic Classics*, p. xiii.

⁴ Leslie, *Essays*, p. 25.

⁵ Hasbach, "Adam Smith's Lectures," in *Political Science Quarterly*, vol. xii, p. 685.

separate economic conditions, nor even conceived that they were separable, from the science of law. His place in the history of economics is established and unshakable and there is no ground for dispute over the value of the work to which he gave initial impetus. But it is altogether a question if his place in the science of economics is not rather the result of fortuitous circumstances than of inherent merit as an economist. As between Smith and Turgot in this field there is no comparison between the men, but rather marked contrast. As Dr. Seligman has pointed out, "to Turgot we owe the first analysis of modern distribution into wages, profits and rent; to Turgot we owe the discussion of the distribution of labor, and the nature and employment of capital; in Turgot we find the iron law of wages, the great arguments against the corn laws, the overthrow of the guild system, some of the fundamental principles of taxation, and a host of other doctrines."¹ And not only is the quantity of economic doctrines incomparably greater in Turgot than in Smith, but the quality of their respective works, their fundamental conceptions of economic relations, their construction of economic phenomena and analysis of economic laws, their perspicacity of economic insight and lucidity of expression are radically different, and with the advantage all in favor of Turgot. Both, indeed, had gained the historical perspective required for the interpretation of the present, but here again their methods were in sharp contrast; Smith was essentially expository and illustrative, Turgot was critical and constructive; Smith was an instructor, never separate from his didactic methods, Turgot was ever appealing to reason and conscience. Smith sought what had been found serviceable in producing opulence, while Turgot ceased not to appeal to the sense of justice in man, in behalf of what ought to be, regardless of what had been.

And their view-point as economists was equally at variance.

¹ Seligman, "Review of Léon Say's Turgot," *Political Science Quarterly*, vol. iv, p. 180.

Smith's position has already been defined. Turgot would posit reason as the sole determinative factor in construing economic relations. Had he been confronted with the phenomenon of industrial capital as it exists to-day, together with the obvious sources of income found in industrial processes, he would have been quick to renounce the fallacy of regarding agriculture as the sole agent of a *produit net*. All his writings warrant the assertion that under changing social conditions and continuous industrial readjustments, Turgot stood open to change and modification of his views, in so far as these were not based "in the nature of things." And in coming to his theoretical and practical conclusions, there is nothing in Turgot to match the indefiniteness of generalization, vague definitions and "squinting constructions" of economic doctrine which are so characteristic of Smith. Hasbach, in the essay already quoted, says that "Smith grafted a physiocratic economic branch on the tree of his metaphysics." Any unprejudiced reader of the *Wealth of Nations* who is at all qualified to form independent judgments, feels consciously when perusing book i, chapter v, and book ii, chapters i and ii, where Adam Smith comes nearer propounding a theory of distribution than anywhere else in the work, that he rather tied to the branches of his metaphysical tree some economic fruit, with the flavor of which he was unfamiliar.

The *Notes* make it clear that neither Turgot nor the Physiocrats had any part in communicating to Adam Smith his doctrines of the division of labor, and of Natural Law and Liberty. Whatever he says of this in the *Wealth of Nations* he got from sources outside France. But what little there is in his doctrines on the distribution of value he must have gotten from some source, and that doctrine was the one specialty above all others of Quesnay and his school, as well a favorite topic with Turgot.

Events in England, however, were ripening for the industrial revolution. Almost coincident with the appearance of the

Wealth of Nations came the revolutionary economic fact discovered and applied by Smith's erstwhile fellow professor in the university. The *Wealth of Nations*, written under the domestic system and of most use in that environment, was destined to become the book of reference and inspiration for the economic schools and literature of the factory system; the name of Adam Smith quickly became a household term. The fact that the *Wealth of Nations* was scientifically inexact and capable of many different interpretations made it all the better adapted to general and promiscuous discussion. Adam Smith sprang at once into prominence and enduring fame among economists and with the public. His place is assured and indisputable, and his work is beyond disparagement because of what it accomplished and inspired others to do.

Meanwhile events in France were ripening to an economic revolution, which produced so much social fire and political smoke that the man who, more than all others, discerned the true nature of the swiftly approaching revolution and devoted his life with sublime unreserve to avert it was obscured to most of the world outside of France for more than a century. When Turgot was dismissed from the Ministry of the King, he was held in dishonor by most of his own nation. He had a circle of friends who held him in highest esteem and appreciated his efforts for France. It is not yet fifteen years since the first account of his life and doctrines appeared in English. Little of his work was published during his life time, and the works in English concerning him, though good, are but fragmentary at best. The twenty months during which he was Controller-General of Finance are among the best known periods of French history; but, outside academic circles, his wider fame and richly-deserved recognition are but in process of being established.

CHAPTER III

THE POLITICAL PERSPECTIVE OF THE SIX EDICTS

THE wealth of material confronting the historian of the age of Louis Quinze is an embarrassment. So much that is pertinent and relevant to almost every topic connected with this period is easy to adduce, that the difficulty of a specific task lies in selecting what not to say. So much crumbling was there, and so many contributing elements to the activity of the time that only the barest outline becomes possible within becoming space. Among the numerous forces which were working toward the overthrow of the ancient order, three stand out prominently, and these yield to brief exposition.

From the time of Richelieu, under whom the Estates General met for the last time before the Revolution, the two political forces in France which were in a position to figure alongside of Royalty were the Parlements and the Clergy.¹ Out of the clash between imperial and papal absolution, the Parlements emerged with growing prestige. As a negative political force, they came to confront both the Church and Royalty. The life-work of Turgot, and especially the Six Edicts which marked the culmination of his career, cannot be comprehended until these three forces, at least, are properly articulated.

I. *The Parlements*

The epoch of the Crusades was succeeded in France by the era of the Universities. Among these, the universities of Toulouse and Orleans became especially noted for the study of law. The Institutes, the Code and the Pandects of Justinian

¹ Jaurès, *Histoire Socialiste*, vol. I, pp. 1-146.

shared with the classics in the intellectual awakening. The increasing number of lawyers gradually replaced the nobility in the councils where war and booty had been discussed and justice, or what passed for that, was dispensed. The nobility scorned the lawyers; learning was a drudgery far removed from the instincts of these men of war. Thirteen parlements came to be established in as many different provinces and were the recognized judiciary of the realm. Partly owing to its location in proximity to the Court, the parlement of Paris exercised a sort of primacy among them and was the representative body in acts where all were concerned.

The parlements, immediately subject to the king, were counted by the monarch as his organs for construing the laws and administering his justice. All legislation sprang from the King and Council, and when of material importance, the laws were submitted for registration in the body of laws, if of general character, to the parlement of Paris, if of local interest and application, to the provincial parlement most interested. As conservators of the civil laws, the parlements often found the positive laws proposed by the monarch in conflict with precedent. In this case, they refused to register the law, whereupon the king summoned them to a *bed of justice*. At this function the king appeared in his sacred person and listened to their arguments in protest. If the arguments were well taken, or if for any reason the king deemed it unwise to force the issue, the law was withdrawn; in case the king remained firm in his determination, he commanded parlement, by virtue of his absolute authority, to register the law. Sometimes the parlement yielded; often they were obstinate and refused to do the will of the king. In such cases the *lit-de-justice* being dismissed, *lettres de cachet* were issued under the king's seal, the recalcitrant magistrates were arrested, imprisoned, banished, or otherwise punished according to the pleasure of the king. With the decree of banishment went the confiscation of the magistrates' office and privileges.

The parlements have been much lauded as the conservators of the liberties of the people. This claim can scarcely be made good. They were the conservators of tradition, standing against both king and clergy for what was inherited. It was through a quarrel with the clergy that the parlement of Paris was exiled, following a bed of justice, shortly after Turgot entered the magistracy. His acceptance of a place in the parlement by which they were replaced served to win for him the undying hostility of the deposed magistrates and their partisans. How much influence this had in their later relations is an open question.

II. *The Church*

About the end of the thirteenth century, the Hildebrandian policy of centralization reached the logical and fatal consummation of ecclesiastical policy. The church had long since ceased to be merely an organ of religion; it had come to be a church-state, having its own code, its judiciary, executives, legislative bodies, and diplomatic representatives; claiming to be the voice of God, it claimed primal jurisdiction over all sovereigns and all people. It was a formidable power, a little Christian, more Jewish, and more pagan than either. It had gathered up the imperial power of the Empire and made temporal sovereignty an inseparable function of spiritual jurisdiction. It claimed the material power of purely civil states for its defense and aggression, and behind all it claimed the sanction of the miraculous power of Omnipotence for the establishment of its decrees.

Boniface VIII. decreed the property of the Church wholly severed from all secular obligations, and declared himself the one exclusive trustee of all property held throughout Christendom by the clergy, the monastic orders, and the universities. Without his consent no grant or subsidy, aid or benevolence, could be raised on those properties by any sovereign in the world. This decree not being received with favor, the Pope

issued a series of four bulls looking to the formation of a perpetual league of the French Clergy against the King. Failing again, Boniface issued another bull in the following year censuring the King for oppressing his subjects, denied his right to bestow benefices, and rebuked his presumption in subjecting ecclesiastics to civil jurisdiction.

To meet these successive onslaughts of fatuity, the first States-General was convoked by the King. The Clergy, the Nobility and the Commons each drew up its own address of remonstrance. After much wrangling, the papal claims were finally reduced to formal definition. On November 18, 1302, the famous bull "*Unam Sanctam*" was issued from a consistory. This precious document stated the papal power in the following terms :

"There are two swords, the spiritual and the temporal ; our Lord said not of these two swords 'It is too much,' but 'it is enough.' Both are in the hand of the Church : the one, the spiritual, to be used by the Church ; the other, the material, to be used for the Church. . . . One sword must be under the other, the temporal under the spiritual. . . . We assert, define, and pronounce that it is necessary to salvation to believe that every human being is subject to the Pontiff of Rome."

In answer to this bull, two stormy parliaments were convened in the Louvre in March and June of the following year and, by the mouth of one of the most eminent professors of law in all France, the Pope was summoned for trial before a general council which the king was urged to convoke for this sole purpose. The death of the Pope brought the proceedings to an abrupt end.

Two permanent effects arose out of these conditions. On the one hand, the standard of the rights and prerogatives of the Clergy had been authoritatively defined, and although it was inexpedient to press the claims at that time, the end to be sought was clearly defined ; and the Church had learned how to wait. On the other hand, the parlements gained a prestige

as guardians of the rights of the people against the encroachments of canon law.

At the time of Henry IV. one-fourth of the territory of France was in the hands of the Church. In addition to these lands, many industrial enterprises were conducted by the monastic and the religious orders, and operated as sources of revenue. Some of these have been banished in 1903. The clergy claimed exemption from taxation on real estate both by virtue of final jurisdiction and because of the expense of celebration of divine service. The first claim was not pressed in the face of a strong minister or equally strong king. In lieu of taxes, the clergy granted gratuitous gifts to the king at periods of five years, and held themselves to convoke an extraordinary assembly on the breaking out of war, and to make a special gift by means of which the King might be in position to make the first advances on war expenditures. The amount of these gifts was commonly provided by means of loans contracted, and the interest on these accumulated sums became a heavy charge on the holders of benefices, who had to contribute one-hundredth of their revenue. These charges were held before the king as additional reasons why the clergy should be exempt from all taxes, real and personal. Other claims for immunity and privilege were based on these gifts, and this, together with the ceaseless jealousy with which the spiritual orders regarded all civil constitutions as putting in jeopardy their own claims to final jurisdiction, were a fruitful source of disorder and difficulty in political administration.

III. *Royalty*

The story of the development of feudal lordship into the personification of absolute power in the person of Louis XIV. is a long and complex, but never a tedious tale. The claim of power could be made good only by the exercise of it, and it was not until late in the reign of Louis XIV. that a series of great statesmen had finally accomplished the subjugation of

all parts of the kingdom. Among themselves, the different parts of the realm were largely strangers and often hostile; their one bond of unity was their common subserviency to the Monarch. Such a thing as a national self-consciousness did not exist. When the great king used the famous expression, "I am the State," he spoke truly. There was a French nation, to be sure, but all the attributes of sovereignty by which a nation is constituted were vested in the sacred person of the French king.

As the feudal lords were brought into subjection, they were charged with furnishing the monarch with his fighting force, and with dispensing justice. All this had to be borne at their own charges. Subsequently, as already stated, the parlements relieved the nobles of part of this service. Later, it became more convenient for the king to have his own troops under pay and always prepared. It was wholly inexpedient to exact this expense from the nobles who were yet pledged to personal military service, and they were made exempt from it. Slowly but with proverbial certainty, the nobles were relieved altogether from this personal service to the king, and were granted exemption, with their personal retainers, from all military service. When they served at all in the armies they were paid the same as the commoners in like service.

In this manner the court of the king became burdened with one of its heaviest weights, an incubus which could not be shaken off. These nobles possessed much territory; they had come to be exempt, along with the clergy, from taxes on real property; they were men of war who did not wage war except for pay, and came to be far more enamoured of the pleasures of court life than of the field of carnage; they had to be kept, they had to be amused. There was nothing for them to do but to supplement their income by the bounty of the king, increase many-fold the budget of his expenses, and contribute almost nothing to the revenues of the state.

When Louis XIV. and his great ministers were memories,

when the tide of monarchical aggrandizement turned and ebbed through the Regency and Fleury into the hands of Louis XV.; when that monarch became diseased without and leprous within, and his court a shameless pornocracy which befouls the historic page and defies the telling, ~~the two hundred and seventy thousand~~ *privilègiés* constituted a financial burden which could not be borne.

When Robert Turgot began his public career, these three powers of France were confronting each other, and royalty, in all that pertained to the assertion and exercise of the regal functions of an honored kingship, the weakest of them all. The parlements, exponents of civil law and the conservators of tradition; the church, exponent of canon law and conservator of a presumption which included worlds seen and unseen; royalty, exponent of positive law, embodiment of absolute power, and weakened to the point of extinction; these three Turgot saw and comprehended more clearly than they can be known to-day, and when he consented to become the king's right hand, and head too, it was with the definite purpose to rehabilitate the monarchy, free it from part of the incubus of the nobility by cutting down the expenses of the court, compelling the *privilègiés* to give up part of their economic privileges and to bear a proportionate share of the expenses of the state; to incur no new debts till the old were being paid; to pay all legitimate obligations in full with no subterfuge of bankruptcy, and to relieve the people from the crushing burdens which had been heaped upon them.

This program is definite and not hard to be understood; but Turgot had too long been governor of one of the most wretched provinces to underrate the difficulties which beset him. It is probable that no such chaos of economic conditions has ever at any time confronted any Minister of Finance in any nation. Behind him were the legitimate expenses of the State, the expenses of the Court which had been trained by a century of wanton extravagance, the enormous mass of war

debts which had been accumulating through many years, and the impossible obligations assumed by his predecessor ; confronting him on the other hand were antiquated methods and vested rights. He must devise better means of covering revenue into the treasury and displace discredited ones ; he must take burdens from the unprivileged and put them on those who had long enjoyed special economic advantages ; he must repudiate some obligations, refund others, and set in motion processes for the extinction of them all ; he must cut down expenses in a way to make some favored ones feel that the ends of the ages had come, and reunite in the hand of the king as many taxes as possible of those which had been sold. And all this meant only to restore monarchy to its actual exercise of sovereignty, "a paternal government, in which the sovereign is raised above all for the welfare of all."

To accomplish his ends and bring about a peaceful revolution, Turgot relied solely on economic reforms. Free industry, free trade in the necessities of life, proportionate taxation and no special financial privileges, constituted his method. Days of larger and more general enlightenment might pursue the same with profit.

CHAPTER IV

ADMINISTRATIVE ORGANIZATION IN THE ANCIEN RÉGIME

UNTIL after the revolution there was no general *cadaastre*, or survey of the territory. Such surveys as had been made were inaccurate, conflicting and worse than useless, inasmuch as they were merely provocative of dissension. Boundaries, both general and specific, were for the most part consensual and of historic origin. There were certain military divisions which followed natural geographical lines, but since these lie without the lines of ordinary administration, they may be disregarded.

The thirty-two provinces were military governments, strictly speaking, and were similar in administration to the eight small governments which were not included in the number of provinces. The boundaries of these provinces conformed, for the most part, to the great feudal estates which were brought into subjection in the course of the development of the monarchy. Their lines were, therefore, most irregular, and would have been exceedingly inconvenient if established arbitrarily. For purposes of revenue from all the realm, the country was later divided into thirty-five *Généralités* or *Intendances* and these, at the opening of the reign of Louis XV, were governed by thirty-four Intendants, Toulouse and Montpellier being combined in one jurisdiction. The close correspondence between the number of provinces and généralités gives no adequate indication of the essential overlapping of territory; no one of the provinces but had two or more intendants exercising jurisdiction in its territory. And in the absence of definite surveys, the residents who happened to live within the lines of conflicting jurisdiction

often felt the inconvenience of double taxation as well as other evils.

Originally the intendants were special agents of the crown, having in charge all local financial matters other than the collection and legal jurisdiction of the *taille*. Gradually, with the growth of royal power, the intendants were put in charge of all matters of police, public welfare and militia service. Jurisdiction over the *taille* was subsequently taken from the *élus* and added to the functions of the intendant, and appeal from his decisions was carried to the Court of *Aides*. Here the intendants came directly into contact and conflict with the magistracy. In all other matters, appeal from the intendant was direct to the Controller-General of Finance and the Royal Council. It was in matters of reform which came before the magistrates on appeal from the intendant that the greatest hindrances to effective reform were met. Another local obstacle was met in the nobility.

The intendants were first known as *commissaires départis*, and as such came as representatives of the Crown into immediate conflict with the nobles living in the provinces. In the Intendants the feudal lords saw the emissaries of their sovereign who was attempting to accomplish what remained of their subjugation after the work of war measures had been finished. The nobles could easily harass and annoy the local administrators without bringing themselves into direct conflict with the king. They could appeal directly to the king against the Intendant, and the administrators found it much more convenient to extend to the utmost the privileges granted by the Crown or urged by the nobles, than to come into stubborn conflict with them in matters of contributions. When the Intendant happened to be chosen by favoritism rather than for effective service, the house of the Intendant reproduced on a small scale the luxuries and depravities of the Court.

Again, the entire territory of France was divided into

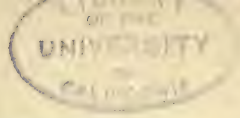
election districts (*pays d' élections*) and states districts (*pays d' états*). In the first, the King assessed the taxes directly upon those who were subject to taxation, by means of his administrative officers; in the second, the states or assembly received their gross apportionment from the Minister of Finance, apportioned it themselves among the different parishes, and returned each year a gross sum to the Royal Treasury. In the first, the crown named the special magistrates, called *élus*, to have jurisdiction over the matter of the *taille* and all claims growing out of its assessment and collection. The *élus* had penal jurisdiction also, but it was by a later development that their jurisdiction came to be restricted to the latter.

The worst features of the financial system became conspicuous in the final personal assessment and collection of the taxes. Assessors were generally chosen each year from among the residents of the parish; rarely if ever had they any adequate qualifications for the place, either in business judgment or in general intelligence. Most frequently they had old scores to pay off, and lacking these, they knew they would have, so they had no compunctions in anticipating future trouble. They were held responsible to their immediate superiors for a definite sum which they must find somewhere. Assessments came to be merely matters of neighbor spying on neighbor, and assessors were cordially hated by all. When the assessments had to be collected, not infrequently the property assessed could not be found, the supposed owners were naturally suspected of concealing their wealth, the sheriff's writs were handed over to convenient soldiery for execution, and the spectacle was not uncommon of fleeing men, harking through the woods, pursued by soldiers and a motley rabble, some accusing the fugitive, some heaping anathemas on the pursuing officers, and others merely enjoying the chase. Such spectacles as this at one end of the citizenship contrasted strangely with the scenes at the other end where the sums so gathered were spent. A graphic picture of these appalling

measures and conditions would fill volumes of no pleasant reading.

The administration of finances was made difficult further by the innumerable barriers and restrictions which the provinces raised against each other and themselves. Driven to straits to provide the sums exacted by the Council, export and import duties were laid on goods passing from one province to another, transit duties were laid on commodities *en route* through intervening provinces, and in some of the cities the Crown added to the sum of the taxes by certain claims of its own. Especially heavy duties were levied on goods imported from foreign countries. Industry was taxed; all professions and trades being organized into close corporations or guilds, masterships were held beyond the reach of any but sons and sons-in-law of masters; women were wholly excluded. First and second twentieths with subsidiary additions were levied on incomes, capitation was assessed in proportion to presumed ability, and the *taille*, personal in some provinces, real in others, was assessed according to ability to collect. Every possible place, person and thing susceptible of yielding revenue was duly exploited, privileges always excepted.

Among financial minds of undoubted genius, that of the Minister of Finance, during the period of Turgot's Intendancy, deserves to rank near, if not at, the top. Biographers and historians of the period have, almost without exception, misunderstood and misjudged M. l'abbé de Terray. This man proved himself one of the most successful Ministers of Finance in the history of France, if a man is to be judged by the adequacy with which he discharges the functions of his office. Terray had but one task laid upon him—to finance the court of Louis Quinze. How the sums were to be raised the king neither knew nor cared; so long as the resources of his minister were sufficient the king was pleased. And it is obviously unjust to apply moral standards to a man utterly without morals, and who has no call to use them in the discharge of his duties.



The student of finance can only look with admiring awe and wonder at the unexampled ability displayed by this minister in the matter of securing revenue for royal expenditure. Taxes direct and indirect; taxes on consumption and production; taxes on exports and imports; taxes on industry and taxes on indolence; taxes on wealth and poverty; taxes on emigration and immigration; taxes sold at auction and privately negotiated; noblesse and its privileges sold to whomsoever had the price; places created and sold; obligations repudiated and debts scaled; compulsory gifts and gratuities exacted; loans forcibly made and others contracted at impossible per cents.—if any revenue-wresting device is wanting in the list, it is only because M. l'abbé de Terray had not yet had need of it when Turgot succeeded him. And the incidence of all these impositions neither king nor minister knew or cared: "*after us the deluge.*" Money was the one insatiable and inexorable demand, and money the Controller-General supplied. No minister of conscience and remorse could have done it; had Turgot, by any mischance, been summoned to that ministry before the time when he did assume its burdens, he certainly must have failed; his twenty months as the virtual governor of France would have been shortened to less than as many days.

But such, nevertheless, was the administrative machinery at his command when he attempted to reform the finances of the monarchy, and such were the conditions confronting him and challenging him to resolve them into some sort of order. And Turgot knew the situation and knew it thoroughly; nine years in the magistracy and thirteen years as intendant under Terray gave him clear insight into more than was comprehended by the whole Royal Council, for, besides being of quick and tender sympathy, he was a trained, thinking, practical economist, and an honest man.

Three adjustments, as Turgot conceived it, were imperatively and immediately necessary. He told the king² that expenses

must be cut down to the lowest possible amount consistent with the legitimate demands of the state; useless and superfluous offices must be abolished and their expenses saved to the state; all heads of departments must consult the Minister of Finance before submitting their budgets of annual expenditures, and they must also be prepared to give sufficient reasons for all sums demanded; all branches of revenue must be consolidated, as far as possible, the multiplicity of fees and claims must be merged into a few lines of taxes which, while less than the amount of the many combined, would increase the net amount of revenue by reason of the vastly lessened expense incurred in their assessment and collection; here, too, all superfluous and vexatious offices and functions were to be dispensed with, so far as could be done without crippling the service, and the smaller number of officials should be more carefully and discreetly selected, efficiency alone being sought; and as a third plan of reform all exactions from the subjects of the king for the support of the state were to be based, as nearly as possible, on the advantage received, on the enjoyments afforded by the protection of the state, and not on the basis of social and political distinctions, or other accident of birth.

Here, now, may be discerned the true significance of the Six Edicts, and the reason why these eminently sane and wholesome documents met with such determined opposition and temporary defeat. And here, too, must any comprehensive discussion of the Edicts, their fate, and that of their author veer off to the region of ethics, political and social. The permanent principles in human nature, greed, pride of position, place or possession, self-interest above social interest, and ignorance and prejudice, these are the identical stumbling-blocks in the way of all reform; they meet reformers of the present identically as they did Turgot and all reformers of the past, and as they will continue to confront reformers of the future till the times of reform are passed away.

PART II

HISTORICAL AND CRITICAL

CHAPTER I

SUMMARY OF CONDITIONS GIVING RISE TO THE SIX EDICTS

WHILE Turgot was yet in the Seminary of St. Sulpice, he turned his attention to the study of economics. From the time he wrote his letter on Paper Money he entered more and more into that field, and his philosophy of history grew simultaneously with his philosophy of economics. His social and economic philosophy, moreover, was so intertwined with his historic insight that they together formed inseparable components of his body of thought. The same clear vision which he directed to the past with its rise and fall of many nations, he turned with even more eager scrutiny upon and into his present. With an almost photographic accuracy, the mind of the philosopher-economist took note of the hidden forces which lay beneath the unresting agitation so characteristic of his day. And what the man was, no less than what he had stored away in his prodigious memory, what he was by nature no less than what he had become through the character of the studies by which his faculties were trained, determined what he saw. Being what he was by nature and by culture, he could and did see what was concealed from most of his generation.

At the heart of his social philosophy lay certain definite and unchanging principles; the various groupings of men, whatever the bond of cohesion which attracted and held them in political, industrial, social or religious bodies, all these were essentially superficial, temporary, evanescent. The underlying causal and determinative principles, immediately involving the conditions of human existence with all its possibilities, were economic principles based on justice, order and progress.

If the relations of man to nature, and the business relations of man to man were forced arbitrarily along lines productive of injustice, disorder and stagnation, Turgot predicted the inevitable overthrow of that misguided authority. In other words, Turgot held that bodies of men were susceptible of becoming permanent, as bodies, only *en rapport* with the fundamental laws built into the constitution of man; to contravene these laws and to obstruct their operation meant the sure extinction of the institution which thus set itself athwart the course of development. These conceptions he elaborated in the second part of his first address at the Sorbonne.

The larger significance of this philosophy lies not in the mere utterance of it by a graduate student in theology; other men have uttered as wise philosophy. But these ideas became inwrought into the very life of the man, the creative and initial motives of his twenty-five momentous years of public activity. And it is here that, in the interpretation of Turgot's doctrine, the life of the man rises to importance equal to, if not greater than, the critical analyses of his public documents; indeed, it is the man himself, his fundamental and motive ideas, which give color and complexion to his writings. Not to know the man is to throw the interpretation of his doctrines into inextricable confusion, despite their clarity. To see France as Turgot saw it, to penetrate intelligently into the very heart of its life for twenty-three indefatigable years, to breathe its atmosphere of dumb suffering or piteously impotent wrath on the one hand, and on the other the inhuman arrogance which scrupled not to exploit the bodies and souls of men for sensual indulgence and animal ease; to forecast the future of his day, and ours too, from the view-point he occupied, this is not a mere indulgence of the historic imagination, it is indispensable to the adequate understanding of the life and acts of Turgot.

It is scarcely possible to overstate the importance of this application of the spirit of history. In the particular case in

point, we have one of the best possible illustrations of the vagaries and misinformations to which one will be led by proceeding otherwise.

In his *Geschichte der Nationalökonomie*,¹ Dr. August Oncken gives the best historico-critical study of the works of Turgot which they have yet received. It is impossible to withhold admiration from the work of Dr. Oncken for its thoroughness and characteristically German passion for details. For the main points of his method, nothing but good may be said; for the main points of his conclusions relating to Turgot, scarcely anything good may properly be said. Instead of putting the real man to the fore, and interpreting his doctrines and administration in the light of the character out of which they sprang, Dr. Oncken subjects the manuscripts of Turgot and his immediate predecessors and contemporaries to a minute comparative examination, and out of the analytical fragments he constructs a Turgot as little like the original as figments of the imagination must necessarily be. And for his misconceptions, Dr. Oncken cannot plead the constitutional inability of Frank and Teuton to comprehend each other, for in all that pertains to his public activity in his generation, Turgot was in no sense typical of his race and time; he was much rather an inter-racial citizen. Purely from the standpoint of interest in the integrity of the science of economics and history in general, one is impelled to deplore the misapplication of excellent method by which Dr. Oncken has worked out conclusions relative to Turgot, to his place in his generation and in the history of economics, which are not only erroneous from the standpoint of the science, but so misleading as to be positively bad. A large part of Dr. Oncken's work, especially that which concerns Turgot, in both the first and second books of the *Geschichte*, is one of the most interesting and picturesque

¹ *Hand und Lehrbuch der Staatswissenschaften*, edited by Max von Heckel, Band 2, 1902.

pieces of destructive criticism in all the modern literature of economics.

Having built his critical fragments into an imaginary Turgot, Dr. Oncken does not hesitate to question the record of Dupont¹ concerning the change in Turgot's course from the Church to the Magistracy. Of this interesting episode, Dr. Oncken says: "The grounds, therefore, are not altogether clear. Because, the explanation which he gave his friends, that it was impossible to bear a mask before his face during his whole life, cannot be taken as a serious argument with reference to a position in which the highest dignitaries of the church did not scruple to make an open show of their atheism; even though Turgot was not himself an atheist."²

Oncken's Turgot, moreover, appears again and again as untrustworthy witness of his friends and of contemporary events and ideas. Expressions such as the following are Dr. Oncken's regularly recurring judgment:

"But Turgot's reliability also appears again in a most dubious light;"³ "Thereby has Turgot gone against the historical truth;"⁴ "Turgot's report, therefore, does correspond here with the evidence;"⁵ "This again is an exaggeration."⁶

There is so much of really valuable textual and literary criticism in Dr. Oncken's work that one is led to feel sincere regret that his prejudice against Turgot, whom he appears utterly to fail to comprehend as a moving character in his field of history, vitiates the integrity of his conclusions and casts suspicion on the animus of his criticism. In one passage, Dr. Oncken starts off with apparently unqualified commendation and appreciation of Turgot. He quotes from Turgot's letters to the curés of his province, and says: "In the foregoing words we have the whole of Turgot before us. He is a man

¹ Dupont, *Œuvres de Turgot*, vol. 1, p. 28.

² Oncken, *Geschichte der Nationalökonomie*, p. 436.

³ *Ibid.*, p. 304.

⁴ *Ibid.*

⁵ *Ibid.*, p. 293.

⁶ *Ibid.*, p. 306.

of enlightenment. To this spirit we owe the long preambles to the edicts which he introduced at the beginning of his ministry. There are verbose discussions which, in place of the customary '*car tel est notre plaisir*,' seem to desire to put the formula '*car tel est la loi naturelle*.'" Lest he should, however, seem to be betrayed into unquestionable praise of Turgot, Dr. Oncken immediately adds: "Now, one must not understand, of course, that Turgot had it in mind to carry through his projects at that time only with gentle means. It may have been only a survival of his theological period that he looked upon every one who opposed enlightenment in his sense either as a dangerous fool, or as inspired by base purposes. The expressions, 'absurde,' 'ridicule,' 'puérile,' 'imbécile,' and the like which point to the first idea, and 'frivole,' 'friponnerie,' 'brigandage,' and so forth, which point to the second, were frequently in his mouth." And after quoting his instructions to the police for the prompt and rigorous quelling of the bread riots in the province, Dr. Oncken says: "We have here already an anticipation (*Vorklang*) of his attitude in the so-called bread war at the beginning of his ministry."¹

Further quotations are superfluous. Dr. Oncken, in undertaking the interpretation of Turgot and his works from this standpoint of literary criticism, has failed to comprehend fully the man and his situation. In a peculiar way, Turgot's life is the interpretation of his doctrines, and Dr. Oncken illustrates how far afield a scientific method may lead one who attempts to approach it from any other point of view.

Turgot looked upon the impending revolution in France as essentially an economic affair. The conception of the Reformation of the sixteenth century, as Guizot later recorded it,² was common among the *philosophes* of Turgot's day. The

¹ Oncken, *Geschichte der Nationalökonomie*, pp. 439, 440.

² Guizot, *History of Civilisation in Europe*, p. 257.

intellect of man had revolted against the authority of institutions which presumed to dictate to thought and conscience. Now that thought was freed—and it was tremendously free both within and without the Church at that particular period—it was inevitable that thought should revolt further against the authority of institutions which presumed to dictate the conditions of existence, of man's subsistence to be gained only from nature, and the distribution of the means of sustenance. He predicated certain laws inherent in man through all the continuous process of creation, and believed, with all the energy of his being, that governmental interference in economic relations lay at the root of the wide-spread misery which enshrouded, sometimes all too literally, the masses of the people. Whatever social and political changes might be involved in the revolution, Turgot regarded them as incidental and secondary rather than fundamental and causal. Unreasoned and irrational legislation, which forced a whole nation into centuries of abnormal commercial and industrial relations, had brought that nation to the verge of collapse; wretchedness and destitution, in gilt trappings or in wanton nakedness, were all the nation had to show as the result of its misguided efforts at economic legislation. To discern this was a vastly different thing from attempting to change what was already articulated in the political constitution of the realm. The conditions might be resolved in salons and sederunts; doctrinaires might discuss and wit multiply its epigrams, but medicament such as this could stem no nation rushing on to economic ruin. Neither could a deferential and apologetic suggestion of reform meet the case; the fruit of ages of unwisdom was ripe; it must be plucked, otherwise it must fall. The reforms attempted, moreover, must be no mere product of speculative wisdom; they must be tried and approved policies. Even though Dr. Oncken's Turgot left his province after thirteen years' administration in worse condition than he found it,¹ the real Turgot

¹ Oncken, *Geschichte der Nationalökonomie*, p. 438.

had proved to the satisfaction of his people the beneficence of rational government. For an economic revolution peacefully wrought throughout a nation no unskilled or faltering hand would serve. The policies must be conceived in honest wisdom and be guided by a hand of conscious strength, lest they glide harmlessly over the surface of established institutions and not go directly and with relentless precision to the heart of the economic disease. A supple, pliant politician could do no work such as this. Turgot was frigid on occasion. His face must needs seem adamant in uncompromising inflexibility and hauteur when Privilege would plead its right to economic advantage even though the nation fall; but that same face was often jeweled by tears of sympathy for the woes of France.

For more than two decades Turgot had been in active public work, directly responsible to the Crown. He witnessed the decadence of royal power, at close range and from the vantage ground of official position and intimate relation to its activities. He was as sincerely attached to the monarchy as any man in France. He knew its ancient constitution, he saw its prestige waning; he served under several successive Ministers of Finance who failed to govern. He saw the throne becoming more clearly and surely the servant, conscious or unconscious, of the classes of economic privilege, and preying with them on the unprivileged. He had no purpose, as he distinctly tells us,¹ of interfering in any way with the distinctions which divided the nation into political and social classes, but economic classes arbitrarily created, were the constant object of his strongest opposition. The Six Edicts were drawn directly at three phases of this unnatural division of the French people.

His devotion to the monarchy, moreover, in no way implied or involved the despotism of Quesnay's doctrines.² In a passage

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 277.

² Oncken, *Geschichte der Nationalökonomie*, p. 401.

too long to be quoted here,¹ Turgot defines monarchy in terms strikingly similar to the later and more familiar words of Guizot.² To him the monarch was the personification of sovereignty, raised above all for the welfare of all, and answerable for the exercise of that sovereignty at the bar of reason, justice and social welfare.

In the Memoir to the King, Louis XVI, communicating the Six Edicts to him and explaining them semi-confidentially, he uses this significant language: "I expect to be sharply criticised, and I fear the criticisms less because they will fall only on me; but it appeals to me as very important to give to the laws which Your Majesty enacts for the welfare of his people, that character of justice and reason which alone can make them permanent.

"Your Majesty reigns at this present moment by virtue of his power: He can reign in the future only by the reason and justice which shall pervade his laws, by the justice in which they are grounded, and by the gratitude of his people. Since Your Majesty has no wish to reign except to bestow kindness, why should he not be ambitious to reign later by the permanence of his beneficence?

"The preamble (to the edict abolishing the *corvée*) which I propose will be vigorously attacked from every side where a criticism may be based; but though no one will think more of me, when nothing remains of Your Majesty in this land but the memory of the good he accomplished, I venture to believe that that same preamble will be cited, and then, the solemn declaration which Your Majesty makes, that he suppressed the *corvée* as unjust, will be an insuperable barrier to every Minister who might dare to propose to re-establish it. I will not conceal from Your Majesty that I had that time in view when I composed the preamble, and that I am deeply interested in it for that reason."³

¹ Daire, *Œuvres de Turgot*, pp. 593-597.

² Guizot, *History of Civilization in Europe*, pp. 195, 196, 300.

³ Daire, *Œuvres de Turgot*, p. 242.

Chiefly because of the rigor of the administration concerning the internal economic affairs of the nation, the monarch and his executives were universally hated and detested by the people. To restore the Crown to its rightful place as sovereign of *all* the people, and to re-establish it in the minds and hearts of the mass of the subjects, was one of the most imperative reforms according to Turgot's view.

To do this meant, on the one hand, to abolish the whole régime of economic privileges and, on the other, to rescue the royal power from the clutches of extortionate financiers, while the State must be guided away from the rocks of bankruptcy, against which it had been run by Terray.¹ This implied, by necessary consequence, a complete revision of the fiscal policies of the State, the recovery into the hands of the King of the mass of revenues which had been alienated, in one way and another, all of which were exacted from the people, but which failed wholly or in part to reach the royal treasury. Further, this program implied the reduction to a minimum of the friction between the individual will and the State in the matter of taxes, the abolition of the most vexatious and harassing taxes, and the most humane administration of those which the burdens of state made necessary. All the Six Edicts bore directly on this matter of reform.

The burden of this change in fiscal policy bore heavily on the privileged classes, as Turgot intended. The Minister did not hesitate to declare frankly his policy in this regard, and to defend it by historical precedent, the necessities of the State, and the promptings of common humanity. As will be seen later, in the analysis of the arguments on the abolition of the corvée, Turgot first established the series of advantages possessed by the privileged owners of land, and then submitted their claims to these advantages to the most scrupulous and rigid critical examination. Unfortunately this argument has

¹ Stourm, *Les Finances de l'Ancien Régime et de la Révolution*, vol. I, pp. 17-25, 37, 38; vol. ii, pp. 126-129, 190, 209-213.

never been translated into English, and almost no reference is made to it by the critics and historians of Turgot's work. It is of fundamental importance, in understanding his positions and the reasons therefor on the subject of economic privileges.

For their organ of protest against the projects of the minister, the nobility had the parlements. Not that the lawyers had great love for the Noblesse, but, being *privilégiés* themselves, they had common cause against the reforms which included them and their interests. But all their protests and the strength of their opposition had been anticipated by Turgot, and in the argument with Miroménil over the question of these privileges, before the Edicts were submitted to parlement for registration, he closes his argument with these sententious words:

"The motives which might have prompted respect for that privilege, had it been limited to the race of ancient defenders of the State, cannot be regarded, surely, in the same light when it has become common to the race of money-lenders who have plundered the State. Besides, what sort of administration would that be which would lay all the public charges on those who are poor in order to exempt all the rich!"¹

As for the Church, Turgot had greater respect for its religious functions than many of those who attended mass regularly, or administered it. But for its economic privileges he had no more respect than for those of the nobility. He directly charges the clergy with subterfuge and inexcusable weakness in accumulating loans to discharge the gratuities they gave the Crown in lieu of proportionate contributions on their property,² but, inasmuch as the withdrawal of the economic privileges of the nobility was sure to raise determined opposition and a lively clamor, Turgot discreetly says of the clergy: "The privileges of the clergy are susceptible of the same discussions as those of the Noblesse, and I believe them no better grounded; however, since deducting the

¹ Daire, *Œuvres de Turgot*, vol. i, p. 276.

² *Ibid.*, p. 288.

tithes and *casuels* leaves the property of the ecclesiastics no very considerable object, I am not unwilling to postpone to another time the discussion of principles involved, and to withdraw here the provision which concerns the clergy: although the proposition may be most just, it is certain that it will excite lively protest; and perhaps the opinions of the king and the minister are not so sufficiently decided but that it may be best to avoid having two quarrels on hand at the same time." ¹

With this definition of his policy, even had Turgot not been known as the author of *Le Conciliateur*, and to have urged the King sturdily to omit from his oath of office the provision committing him to the extermination of heretics, the most unstinted and inveterate hostility of the Church was assured against his every reform measure. And the Church can stir up the popular mind when it will.

It will be seen, thus, that the Six Edicts were designed to cover in part the wide-sweeping and radical economic reforms which, in the mind of Turgot, were necessary to avert the Revolution. The reforms were then possible without the shedding of blood. But France chose to pay the price. The edicts were calculated partly to restore the monarchy to the *de facto* head of the State, re-exalted in the hearts of the people, and made free from the parasites which were fattening from its already over-weakened vitality, and set forward to impartial government of all the subjects. The nobility were to be recalled to their original subordination, made to discharge their reasonable function to the State, and their largesses, perquisites and indulgences at the Court curtailed to the minimum of valid requirements. The Church was to be regarded as an economic person, and required to share the burdens of the State, while her claims to temporal indulgence on the ground of her other-worldly prerogatives, were promised ultimate extinction. All these plans had been well considered, care-

¹ Daire, *Œuvres de Turgot*, vol. i, p. 280.

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fully pondered and peremptorily ordered on the basis of their inherent conformity to justice and reason.

Turgot wrote the notes for a Eulogy of his friend Gournay just fifteen years before he became the business head of the nation. The notes, unpublished during his life, have since come to be regarded as a succinct summary of Physiocratic doctrines, of Gournay's economic ideas, and of Turgot's own most familiar and warmly-espoused ideas of needed economic reforms. Together with the *Réflexions*, the *Éloge de Gournay* represents the best and most widely known of Turgot's work.

The *Éloge* which Dr. Oncken's Turgot wrote does not in any way represent Quesnay's principles, for his Turgot never met Quesnay until less than a year before the Notes were written,¹ and the distance between the men was so great, and Quesnay's professional duties were so heavy, that Turgot was prevented from knowing what Quesnay believed.² Neither does he represent Gournay, but he misrepresents his friend, who owed his ideas to Child and de Witt,³ gives unmistakable evidence of exaggeration and is altogether untrustworthy;⁴ in fact he constructed Gournay's doctrines for him, but because of overweening modesty, chose rather to publish the new ideas as Gournay's rather than acknowledge the truth that they were his own. The following words are interesting :

"Dann hat aber Turgot, der Gournay als einen Mann des absolutesten laissez faire et laissez passer hinstellt, abermals falsch berichtet ;" ⁵ "Das ist die Lehre des Physiokratischen Systems, allein es ist nicht die Lehre Gournay's ; und auch hier hat also Turgot wieder falsch berichtet ;" ⁶ "Nun muss man freilich Schelle zugeben, dass, wenn die Anschauungen, welche Turgot im Eloge seinem Freunde Gournay zuschreibt, in der That dessen eigene waren, so handelte es sich wirklich um eine neue Theorie, und es wäre dann eine übergrosse

¹ Oncken, *Geschichte der Nationalökonomie*, p. 321.

² *Ibid.*, p. 322.

³ *Ibid.*, pp. 291, 437.

⁴ *Ibid.*, pp. 306, 437, 438.

⁵ *Ibid.*, p. 299.

⁶ *Ibid.*, p. 300.

Bescheidenheit gewesen, dies selber abzulehnen. Allein Turgot war in dem soeben angeführten Satze einmal ausnahmsweise im Recht.”¹

Taken altogether, Dr. Oncken's Turgot is not reliable authority, scarcely so even for his own doctrines. But the real Turgot undoubtedly held, in 1759, the doctrines which were embodied in the Six Edicts which were promulgated in 1776. In the Eulogy Turgot says:

“M. de Gournay no more imagined that in a kingdom where the order of successions has been established only by custom, and where the application of the death penalty for many crimes is still given over to jurisprudence, the government would condescend to regulate by express laws the length and breadth of a piece of cloth, the number of threads of which it must be made, and consecrate by the seal of legislative authority four volumes in quarto filled with such important details; and besides this, statutes without number dictated by the spirit of monopoly, the object of which is to discourage industry and to concentrate trade in a small number of hands by means of the multiplication of formalities and costs, and by subjecting to apprenticeships and journeyman-periods of ten years, trades which may be learned in ten days; by the exclusion of those who are not sons of masters and of those who are born outside certain limits, by forbidding the employment of women in the manufacture of cloth, etc., etc.

“Nor did he imagine that in a realm subject to the same prince, all the cities should be mutually regarded as enemies, arrogating to themselves the right to interdict travel in their limits to Frenchmen designated by the name of *foreigners*, of setting themselves up in opposition to the sale and free passage of commodities from a neighboring province, and of thus fighting in behalf of a flimsy interest the general interest of the State, etc., etc.

“M. de Gournay concluded that the sole ends which admin-

¹Oncken, *Geschichte der Nationalökonomie*, p. 313.

istration ought to propose to itself were, 1. To give all branches of commerce that precious liberty which the prejudices of centuries of ignorance, the readiness of government to lend itself to private interests, and the desire of a poorly understood perfection, have caused it to lose. 2. To open opportunities to labor to all members of the State, at least by exciting the greatest possible competition in the sale of goods, which would necessarily result in the greatest perfection in manufacturing processes and the most advantageous price to the purchaser. 3. To give at the same time to the purchaser the greatest number of competitors by opening to the vendor all markets for his article, the only means of assuring to labor its recompense, and of perpetuating production, which has no other incentive than that recompense."¹

These doctrines, written hastily by Magistrate Turgot when he was thirty-two years of age, cannot be other than representative of the theories he had at that time evolved concerning the function of government in the economic organization of the State. Whether his views do misrepresent Gournay or not must be submitted to the same kind of study Dr. Oncken has begun; but antecedent probabilities are all against any misrepresentation of Gournay by Turgot. It is altogether probable that the economic doctrines of the *Éloge* do not represent the Physiocratic School of Quesnay, for the points of difference between Turgot and Quesnay are many and striking; but that is a study yet to be made, and immaterial here.

When Turgot was called to the Province of Limousin as Intendant, these were the doctrines he had in mind, and these were the theories of administration he was most anxious to put to the test of actual practice. When he was offered the less arduous Intendancy of Lyons in August of 1762, he writes a long letter to Controller-General Bertin, concerning the condition of Limousin, his own studies of local conditions

¹ Daire, *Œuvres de Turgot*, vol. i, pp. 268, 276.

and his hopes for the future of the province, and closes with these words:

"I believe, Monsieur, that you would not disapprove that, prompted by my personal interest, I should place before your eyes everything which concerns a work so important. I am dependent altogether on what concerns me in your views for the province where I am, and the aim of this long letter is to pray you to enable me to accomplish here all the good of which I believe it to be susceptible, and which alone attaches me to it. But, in case you believe you will be unable to assist me to succeed in this, then I must think of myself, and I pray you to ask of the King for me the Intendancy of Lyons. I have written to M. d'Ormesson somewhat in the same spirit. He fully understands all the labor which the conditions of the Generality of Limoges requires, and will be able to inform you fully."¹

When thirteen years of most practical provincial administration had only served to deepen his convictions of the truth and relevancy of his theories, and he was summoned to the Council of the King, these doctrines became the definite objective of his administration, and from his first official act until the last, Turgot was unswervingly consistent in his devotion to these four cardinal points as set forth in the *Éloge*: 1. The simplest administrative methods compatible with efficient service; 2. Free trade in the necessities of life; 3. Free opportunity for labor for all who were capable and desirous of it; 4. Free industry as opposed to arbitrary monopoly of the various channels of industrial activity. These theories demanded the Six Edicts; the conditions of the State in all its parts needed the rigorous application of the doctrines; the political supremacy and financial independence of the sovereign, as well as the equality of economic opportunity of the subjects demanded it. It was to realize such beneficent ideals as these that the Edicts were

¹ Daire, *Œuvres de Turgot*, vol. i, p. 510.

issued, and through this have become unique among the historic documents of statecraft.

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The objectives of the Edicts were general rather than specific; they looked toward general interests rather than to particular ones. Moreover, from what has been developed of the general conditions, and from the nature of the Edicts themselves, it is obvious that the primary objective was economic amelioration.

Largely because of interference by the general and provincial governments in industrial and trade relations, the mass of the people were always at or near the margin of starvation. The necessities of life were sure sources of revenue, for the people must pay the taxes assessed or starve. The multiplied restrictions laid on the distribution of such commodities as were produced from the soil were, as Turgot says of them, "beyond belief, were they not here before the eyes." Beginning with his first official enactment in September, 1774, Turgot issued, during the remainder of that year and in the course of the trying year which followed, twenty-three Edicts of the King, Writs of the Council, and various other declarations and letters-patent, all bearing directly on the freedom of the grain trade from its shackles throughout the interior of the kingdom. This policy found its culmination in the second of the Six Edicts which was designed to secure the adequate provisionment of the city of Paris. In the preamble of this edict, Turgot summarizes his whole free trade policy. To him, the interests of the government itself, of the producers, traders and consumers, all imperatively demanded that the government cease its attempt to improve on Nature's provisions, in man and in the soil, for the nurture of her children.

The government had never committed itself to the claim that the right of labor, *le droit du travail*, was the exclusive property of the prince, which the king might sell, and which the subjects ought to buy.¹ But the policy of government

¹ Daire, *Œuvres de Turgot*, vol. i, p. 306.

had, in fact, conformed to that identical policy. All channels of activity, with few unimportant exceptions, were sold to guilds who exercised a monopoly of their particular craft, and paid into the Royal treasury for the institution, confirmation and extension of their privileges. The loans they were compelled to contract to meet the exactions of the tottering Royalty, only served further to weaken the monarchy, strengthened the hold of the guilds upon it, and barred more effectually the door to employment and a means of livelihood to all except those favored by the craft-monopolies. Such conditions were as intolerable and unendurable as those which beset the grain trade; and the abolition of the whole guild system, taken in connection with the emancipation of trade in the necessities of life, was designed to open the way to honest appropriation of the subsistence brought within the reach of honorable industry.

It was through these economic solacements that Turgot sought to alleviate many social ills and to attain such social betterments as could alone serve as a substantial foundation for the perpetuation of the monarchy. It was clear to his mind, at least as early as 1759, that a kingdom divided against itself could not stand. The industrial heterogeneity of the nation, the mutual suspicions and hostilities of its several parts towards each other, its utter lack of political unity except in common endurance of the exactions of the monarch, and the complete want of a social and national consciousness, all these conspired to the instability of the whole political order. Attached with devotion and loyalty to the monarchy, the character of Turgot's legislation and his method of presenting it witness the sincerity of his desire to create a new and homogeneous France out of the distracting chaos of its severally distracted parts.

All his important laws, beginning with the one of September 13, 1774, were introduced by preambles couched in plain and direct language, setting forth the reasons which prompted the

King to enact the law. Circulating these documents widely, as if striving to reason with the public for whom and by whom alone the laws could be made effective, Turgot was plainly seeking to create a public mind. For in no other way could France be welded into a self-conscious state than by the creation and education of a public opinion pervading all classes; the laws of general scope and application were addressed to the reason of all concerned, and their concurrence tacitly solicited; and the constant appeal to justice and equity could not but quicken conscience within the body of the State. By this undisguised candor he sought to create behind the throne a political solidarity in its citizenship such as France did not at that time have, and such as she has not yet secured.

Such attempts as these are unique in the history of statecraft, and many nations which boast of their unparalleled freedom might well wish themselves free from the incubus of lobby legislation with its train of secret legislative concoctions and unsuspected "riders," and in the enjoyment of such a wholesome and practical referendum to the public mind and conscience as the device of this statesman in the *ancien régime*. And back of all these political, social and industrial objectives of the six edicts lay the further aim of moral culture both for the individual citizen and for the State. Turgot sharply arraigns the guild system in that it condemned to idleness and debauchery, to helpless incapacity and enforced prostitution, multitudes who might otherwise be self-supporting and contributing health, and not disease, to the life of the State. In like manner he condemned roundly the promiscuous billeting of troops, especially in rural districts where there was no escape from the moral contamination and debauch inseparable from that regime. As early as his first discourse at the Sorbonne, Turgot felt that a morally corrupt state was in process of extinction, and could not endure. He scrupulously avoids making the ulterior moral effects of the edicts conspicuous, but a mind "nervously conscientious," as his has been described,

religious beyond the religion of his time, could not fail to impress this sentiment on every public document emanating from his pen; and his persistent address to the conscience of France was, perhaps, the best emphasis that could be given to his thought.

His appeal for public morality was not so disguised. The complicated methods of government, the surrender to private interests, the petty details to which the majesty of the law was prostituted, the farming of taxes and the monopolies of labor and of trade, all afforded rich incentive to dishonesty in administration. In the Memoir to the King, referring to the third edict, he flatly accuses the farmers of the taxes on fish and sea-food of blackmail and bribery. The whole scheme of simplification of the revenue system of the government had in view the two advantages of more adequate revenue and the elimination of vexations from the tax-payers and of rascality from the administration.

CHAPTER II

ANALYSIS OF THE MINOR EDICTS

THE long period of preparation was ended. Economic principles which satisfied at once the reason and the conscience, which were advantageous to ruler and ruled alike, had been evolved and elaborated; they had been tried in provincial government for many years; they had been set on foot in the general government for sixteen months, and more portentous reforms impended. The parlements had been recalled from their long exile, and the dramatic "third act" of the *ancien régime* was fitted for the climax. In the head of her chief administrator lay the economic French revolution;¹ if France would endure it, her redemption might be wrought out peacefully; if she refused the proffer at his hand, sterner measures would not be long in maturing.

In February, 1776, Turgot communicated Six Projects of Edicts to the King, Louis XVI, with an explanatory Memoir designed to acquaint the King with the general purport of the legislation. Two of the Edicts dealt with conditions throughout the realm and were general in their scope; the others had to do with conditions peculiar to Paris, but typical of general conditions.

The two, which we have styled the major edicts, were of direct bearing on the political and industrial constitution of the State, and encountered the most determined opposition. The minor edicts, in their application, came within the immediate jurisdiction of the parlement of Paris, and the two of national

¹ Jaurès, *Histoire Socialiste*. In the first chapter of this work the economic causes of the Revolution are admirably discussed.

scope came before the same body in its representative capacity. The edicts were submitted by the King to his Council for their judgment. The Keeper of the Seals, M. Hue de Miro-ménil, voiced the judgment of the majority of that body against but one of the edicts, that abolishing the corvée of hands and animals, and replacing it with a tax on owners of land, privileged and non-privileged alike. This latter phase of the edict was its distinctive feature, and the ground of the opposition to it. The edict abolishing the guild system throughout the kingdom was the one on which the parlement centered its strongest opposition. The minor edicts abolished the restrictions of the district of Paris on the grain trade, abolished certain offices in connection with the port and markets of the same city, abolished the Bourse of the cattle market of Poissy, and changed the form of taxes levied on the trade in suet in that city. The whole of them bore directly on industrial and administrative conditions, on freedom of trade, and on economic privileges.

I. *Suppression of traffic regulations in Paris on grain.* In the Memoir to the King, Turgot explains the length of the preamble to the edict by saying: "It is absolutely necessary to set before the mind of the public the details of the rules abolished, in order not only that they may be suppressed, but that their absurdity may become apparent. So long as these rules remain in obscurity there will never be wanting those who will cry out, as has been done again and again in addresses to the Court, that *these rules are the fruits of the sagacity of our fathers ripened by experience*. Hereafter it will be unpleasant to place these lofty words by the side of the text of the rules themselves faithfully reported in the preamble."¹

After recounting to the King some of the efforts of the preceding months in behalf of freedom of trade, and referring specifically to the abolished restrictions at Bordeaux, Rouen and Lyons, he says: "But the most vexatious obstruction and the

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 246.

one most difficult to overcome is found in the city of Paris and its district. It is necessary to succeed here or to renounce forever the hope of having trade in grain to prevent famine."¹

In the same document he refers to these rules as follows: "These regulations could not be believed to be so absurd as they are were they not before the eye; they cannot be executed; were they executed they would reduce Paris to a subsistence of less than eleven days; they are, nevertheless, an obstacle which prevents establishing trade in grain in the city of Paris, because they are a sword constantly uplifted, with which the magistrates can strike down, ruin and dishonor at their will traders who may displease them, or whom popular prejudice may denounce. These rules are a title authorizing the magistrates, in time of famine, to make a show of their paternal solicitude, and give to them, as protectors of the people, the right of search in the houses of laborers and traders; in short, it is a kind of authority always precious to those who exercise it. Thus, despite their absurdity and habitual non-execution, these rules have been prized always by Chief Magistrates and Parlement."²

In the preamble to the edict Turgot cites the origin of these rules in centuries when there was no trade and the principles of commerce could not be known; he recalls the Ordinance of February, 1415, renewed by a decree of August 19, 1661, which forbade the storing or removal of the sacks of grain or flour arriving by land, the unloading or storing in granaries, and even under awnings, of the same commodities arriving by water; the accumulating of any store of grain, and permitting it to be stopped where purchased, at port of lading or on the roads by which it might arrive. By the same ordinance of 1415, merchants bringing grain to Paris were obliged to sell before the third market day passed, on penalty of being compelled to sell at the lower price of an earlier market day; and the decree of 1661, and a Police Ordinance of March 31, 1635, after having

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 245.

² *Ibid.*

taken from all merchants the right of making any purchase in Paris, forbade in like manner all bakers to purchase more than two hogsheads of wheat at a single bargain. Of this Turgot says, "The same policy, by its contrary restrictions, forced the sale and forbade the purchase."

The district of Paris included a circuit having a radius of thirty miles from Paris as a center. By a decree of 1565, and Police Ordinances of 1622 and 1632, the transportation of grain through this district, or from points within to any point without, either by land or water, was prohibited on pain of confiscation and fine. Thus the provinces lying contiguous to this district were cut off from any possible exchange of commodities, regardless of famine and destitution. This order was first changed by Turgot in the year before the Six Edicts were published.

An Edict of 1672, confirming the ordinance of 1635, forbade merchants who had begun the sale of a cargo of wheat to increase the price, under any pretext; enjoined that all sales of grain brought into Paris should be conducted by the owner in person, or by some member of his family, and forbade the employment of brokers.

The Edict of 1661 prohibited wagoners from selling grain along their route, and even from untying the sacks, on penalty of confiscation and fine; and compelled all who carried on trade in that commodity in the city of Paris to submit their invoices to Notaries, Officials of Grains, and to have them transcribed in public records. Turgot's summary of these rules is terse and pointed:

"It is by such rules that it was deemed most fit in other times, and almost to our day, to provide the subsistence of our good city of Paris. The *négociants*, whose function is that of necessary agents of circulation, and who carry abundance unfailingly wherever they find liberty, security and markets have been treated as enemies who must be harassed on the way and loaded with chains when they arrive; the grain they bring to

the city cannot be taken out; but they can neither keep it nor protect it from the ravages of climate and corruption; they are forced to hasty sales; they are estopped from making purchases; the merchant must sell his grain by the third market day or lose control of it; the purchaser can provide for his wants only slowly and in small quantities. Diminution in prices brings a loss to the trader, their increase can profit him nothing; the grain merchants, dismayed by the rigors of the police are, moreover, devoted to the hatred of the public; the trade is oppressed, slandered on all sides, and driven from the city; a district twenty leagues in diameter divides provinces of greatest abundance from each other, and from our city; and yet all precautions were interdicted in the interior of the city and the outskirts; they seem even to have conspired against future harvests by requiring that the laborer quit his work to follow his grain and sell it himself.”¹

The preamble goes on to show the disastrous famine effects of this sort of legislation. Twelve separate years of famine are cited as proof of the ineffectiveness of legislation, such as this, to provide abundance, and the necessity of practically ignoring the laws against storage and purchase in order to maintain life in the city. He further argues:

“But the non-execution of such laws is not sufficient to reassure the trade which their existence constantly menaces; it has not recovered its functions; the government, being unable to rely upon it, believes it necessary for it to proceed by itself to procure the provisionment of the capital. It is found that the precaution, supposedly necessary, involves the greatest possible inconvenience; that trade conducted under its orders admits neither the extent and the celerity nor the economy of ordinary trade; that its authorized agents bring alarm and sudden rise in prices in all the markets where they appear; that, by reason of their function, they commit many abuses; that operations of this kind, effecting the discouragement

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 218.

and ruin of ordinary trade, enormously increase the expenses, and by consequence overburden our subjects who supply the funds, and finally, that they do not accomplish their purpose.”¹

The closing paragraph of the preamble sets forth Turgot's desires and hopes. “We have no doubt,” he says, “that commerce, delivered from all encumbrances and encouraged by our laws, will provide for all the needs of our good city of Paris. Therefore a constant abundance and just prices for the necessities of life ought to be the consequence and effect of the reform of a vexatious police, of the protection we accord to trade, of the freedom of communication, and finally, of the absolute immunity from all taxes which increase the price; and the good we shall accomplish for our subjects will be the most grateful recompense for the pains we take in their behalf.”

The edict consists of thirteen articles, of which the first seven enact perfect freedom of purchase, sale, storage, method and time of bargain, carriage and circulation of grain in the city. Articles VIII and IX abolish the tax on wheat, mixed grain (*méteils*), rye, flour, peas, beans, lentils and rice. Article X provides for the retention of the taxes on oats, malt, and grain and grain products other than those expressly freed. Articles XI and XII provide for the collection of taxes for the wages of employes of the market and for indemnity due the prevost of merchants. Article XIII annuls all laws contrary to the provisions of the edict just published.

The details of this legislation in behalf of free trade are indispensable to a proper understanding of Turgot's theory of free trade. As the traditional appeal to Nature and to Natural Law was a negative appeal,² a protest against what existed and an appeal to a more or less vague ideal of what Nature intended should be, so, in a most emphatic sense, was Turgot's

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 219.

² Ritchie, *Natural Rights*, chapter i.

appeal for free trade a consistent appeal to the reason against the unreasonable course of contemporary legislation and its palpably disastrous effects in all human relationships. Dr. Oncken states the case in language which can not be improved: "Turgot erkennt nur zwei Systeme überhaupt als möglich an, einmal das 'système des prohibitions,' welches in den 'siècles d'ignorance' geherrscht hat, und sodann das 'système de la liberté,' welches sich in der Gegenwart emporringt, und das die 'vrais principes de l'humanité éclairée' umfasst. Das eine ist absolut falsch, das andere ist absolut wahr; ein Mittleres giebt es bei ihm nicht. Wiederholt betont er, es handle sich nicht darum, das Schlechte zu verbessern, sondern es zu zerstören."¹ Dr. Oncken goes on to say that in all these points Turgot was as little in accord with Quesnay as with Adam Smith. He had already said of Gournay, "The free competition indicated by him was something entirely different from that of the school of Quesnay and by Turgot himself."² He refers to this former conclusion and says, "Man sieht, das sind zwei ganz verschiedene Anschauungsweisen, und man kann somit in der That sagen, dass Turgot ebensowenig ein echter Schüler Quesnay's gewesen ist, wie wir ihn oben als einen solchen Gournay's erfanden."³

Now to undertake a criticism here of Turgot's intellectual antecedents and relations with Quesnay, Gournay, and Smith, would lead us altogether too far afield from the exposition of Turgot's doctrines. What is sought to be established here is that Turgot was confronted by conditions which were a constant torture to his sense of justice and humanity; his sense of the functions of government revolted at the thought of legislation which had no other effect than bringing misery upon the people. Free trade had never been tried, as he sets forth in the preamble of this edict. He thoroughly believed that this program was "absolute truth" as its opposite was "absolute

¹ Oncken, *Geschichte der Nationalökonomie*, p. 464.

² *Ibid.*, p. 306.

³ *Ibid.*, p. 465.

error." To compromise truth with error for the sake of economic privilege was something impossible to him.

Turgot was not confronted during his life with the economic factors known as the factory system and industrial capital, in the modern scope of that term. He could have known nothing of the characteristics of industries of increasing or of decreasing returns. In his letter on The Brand on Iron he discusses these same principles in their bearing on industries protected by government, and Mr. Stephens misses the mark in his conclusion of Turgot's positions as badly as Dr. Oncken does in most other respects. Mr. Stephens says, with something of true Cobden heat, "It is astonishing in how deep an ignorance of moral and economical principles nations calling themselves the most enlightened still remains on these 'native industry' questions. In Turgot's letter, written 120 years ago, the reader will observe that its arguments and its illustrations are as literally true now against the miserable protectionist fallacies circulated by the Republican party in the United States as originally they were against the narrow views of M. Terray."¹

Now, Mr. Stephens has written a very acceptable book on Turgot, and that superfluous fling at politics he does not understand, misrepresents Turgot as badly as anything Dr. Oncken charges in his numerous indictments; it is unfortunate that the author should seek to make Turgot champion his notions of national policies.

Turgot had but one purpose in view—to save France from the consequence of wild economic policies. His theories were begotten of the conditions environing him. Free trade to him was no party shibboleth or symbol of partisan politics; it was the release of the people of France from a wretchedness which, if it could be at all adequately described, would be most unpleasant reading. Government interference in economic relations prevented any national amalgamation of its parts and

¹ Stephens, *Life and Writings of Turgot*, p. 74.

wrought havoc in social, industrial, moral and administrative activities. Turgot's free trade meant freedom from this brood of vexations which were fast bringing destruction upon his fatherland. Any interpretation of Turgot's attitude toward free trade which fails to take this phase of his thought into account will by so much be erroneous and misleading.

The beginnings of the agitation of free trade were part of the intellectual inheritance of Turgot and his contemporaries received from Vauban and Boisguillebert. The intellectual development of the age could have no other effect than to call before the bar of reason the vices of arbitrary interference in the free circulation of grain. The verdict, moreover, was grounded not so much in pure idealism as in the profound conviction of the causal relations which the laws of the State sustained to the wide-spread misery of the people. Food was withheld from the people, kings profiting by private speculation in grain stored for famine prices; trade was throttled, and lands which might have produced grain were left fallow or turned into vineyards;¹ and when the fury of the people found vent in bread riots and they demanded cheap bread from the paternal government, they asked the impossible, and their hatred for government grew the deeper. When there was abundance in one province, citizens of famine-stricken provinces could not share that abundance by going to it or by importing the wheat, so strict were the rules against *foreigners*. Prices were arbitrarily fixed, and were always abnormal.

The specific reforms contemplated looked to the whole of these conditions. Markets, open and unrestricted, were offered to traders; the care and carriage of grain with government intervention was assured; abundance might be brought from afar to meet the needs of a people, who only the year before were invited to eat grass when they made hungry appeals for bread. This normal demand for grain and its free circulation of grain could not but stimulate production. The modern

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 253.

peasantry of France realizes the ideal which Turgot sought to establish.

II. *The Suppression of Offices connected with the Port and Markets of Paris.* The enactment of free trade in grain carried with it, as a necessary consequence, the suppression of a multitude of offices which had served in connection with that trade. In the interests of simpler, less costly and more efficient administration, Turgot took advantage of the opportunity to suppress along with them a multitude of offices which had been created and sold at various times when the State was sorely pressed for money. The taxes alienated to the offices were almost wholly consumed before reaching the royal treasury in any part. The taxes became effects of the offices and, based on the product to them, the holders of the offices, united in a guild, frequently borrowed money to meet new exactions from the Crown or to meet their own needs. In connection with the administration of these offices Turgot naturally found indisputable evidences of rank corruption.

The official fishmongers fixed the price of fish sold. The taxes were based on the selling price of fish, and the officials, taking into their confidence certain hucksters, lowered the nominal price to the point of extinguishing the taxes, sold the fish at higher prices through the hucksters, and divided with them their ill-gotten gains. They were profiting by filching from the government and by the excess of price divided with the hucksters. Their dishonesty in fixing the selling price of fish had nearly ruined the fishing industry.

When the offices were sold, the individuals buying them paid one-seventh of the price in cash, if they had been holders of like offices before, and one-sixth in cash, if they were new *titulaires*. In abolishing the offices Turgot provided that the officials should be repaid in cash only that part of the price which they had originally paid in money, and that they receive credits bearing interest for the balance. All profits accruing

from the recovery of the taxes into the hands of the king, as well as what was saved through the cheaper administration of the taxes, were designed for a sinking fund for the ultimate extinction of the credits held by financiers in the shape of mortgages on the offices, and for paying in full the price which the holders had paid for the offices.

The last paragraph of the preamble shows Turgot's plans of administrative reform. He says: "The interests of our subjects require that the taxes heretofore alienated to these guilds be henceforth reunited in our hand and administered under our order, in order that, pending the time when the state of our finances will permit us to cease collecting them altogether, we may have at least the best opportunity to make them less annoying by effecting in them such modifications and reductions as would be impossible if the existence of offices, continued in active exercise, furnished pretexts to the holders to disarrange, by demanding indemnities, the plans we purpose to adopt for the greater advantage of our people."¹

The edict consists of eight articles. Article I abolishes all the offices in connection with the port, quays, stalls and market of Paris which were created by the edicts of January, 1727, and June, 1730, and prohibits the officials and their employes from further exercising the functions of the offices. Article II excepts from the provisions of the preceding article, the various offices connected with the wine trade and which had been combined "in the domain and patrimony of our good city of Paris," by a declaration and edicts in 1733, 1741, and 1744. Article III provides for the collection of the taxes by the highest bidder for the government taxes, instead of by the officials whose offices are abolished. Article IV provides for repaying to the officials in cash the one-sixth and one-seventh respectively of the finances of the offices which they had originally paid in money, and in mortgage credits drawing four per cent. interest for the balance. Articles V and VI

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 301.

provide for the payment of all arrears on profits due by the guild of officials, for the extinction of the debits contracted by them, and lastly for the extinction of the credits issued to them in liquidation of the offices. Article VII reserves the right to suppress, to simplify or to modify the taxes which may be found burdensome either by reason of their nature or because of the formalities required for their collection, and for providing by some other branch of the revenues for any deficit from the taxes remitted. Article VIII annuls all legislation contrary to the provisions of the present edict.

III. *Suppression of the Bourse of Poissy.* The opening words of the preamble of this edict throw a suggestive side-light on the fiscal policies of the *ancien régime*. Turgot says: "It not infrequently happens, in the necessities of the State, that it is sought to adorn the taxes, which must needs be imposed, by some pretext of public utility. That subterfuge, to which the kings, our predecessors, sometimes believed it necessary to resort, has rendered the taxes, the genesis of which it marked, most onerous. One of its results has been that the taxes have endured long after the need which had been their initial cause, because of the apparent utility by which they were disguised, or that they have been renewed under a like pretext that they might foster various private interests."¹

In 1690 it was held that the cattle-men who brought cattle to the markets of Paris were compelled to submit to delays and losses by the butchers to whom they sold, and that this condition of affairs was injurious to the trade and prevented abundance of cattle for provisioning the city. To meet this imaginary condition, sixty *jurés-vendeurs* of cattle were appointed, whose duty it should be to pay cash for the cattle brought in and collect from the butchers one sou per pound additional on the price of meat sold. So great was the complaint from the trade that this experiment was abolished after

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 316.

three months. Seventeen years later, the royal treasury being again in straits, the same scheme was again resorted to, and one hundred Treasury-Counsellors of the Markets of Sceaux and Poissy were created, with similar duties. As soon as peace was restored the plan was again abolished. But in 1743 the same institution was recalled into existence, to have daily oversight of the markets, to advance the sale price of drovers for all sales made to butchers and other solvent merchants, and to collect one sou per livre on the price of all sales, whether the officials had made the advance in cash or not; the period of credit was limited to two weeks, with the right of corporal constraint in the third week. In 1747 an additional one-fourth sou per livre was added to the former tax, and continued in force by letters patent of 1755 and 1767. The pretext of the tax was in all these instances to lower the price of meat for consumption and to encourage the stock industry in the provinces.

Turgot charged that this tax which raised the price of each animal more than *fifteen livres* did not fail to raise the price of meat in the markets instead of lowering it; it cut down the legitimate profits of the breeders, discouraged the industry, and destroyed the very abundance it sought to assure. In its effect on the marketmen, he says: "It is no less contrary to every principle of justice that wealthy butchers who are able to pay their bills in cash for themselves should yet be compelled to pay interest on an advance they do not need; and that butchers who happen to be in less easy circumstances, and to whom credit is refused on the ground that they are not solvent, should also be compelled to pay interest on an advance not made for them at all."¹

The condition of the government's finances would not permit the entire sacrifice of the whole amount represented by this tax, and Turgot provides in the edict for partially compensating for it by additional taxes on live-stock and meats on their

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 318.

entry into the city. This plan, which involved no additional expense for collecting the tax, would at once relieve the people of about two-thirds of the tax they were paying under the régime of the Bourse of Poissy, and would at the same time produce a greater net revenue to the Crown. But the freedom of the trade, the encouragement it should give to production, and the natural abundance which had always been produced when trade restrictions were withdrawn, Turgot affirms, are the greatest benefits which the subjects would gain from this act of their sovereign.

The edict was so obviously just and advantageous to all, that it alone of the six edicts was promptly registered by the parlement.

In eight articles the edict provides for : 1. The abolition of all duties on live-stock and meat, collected on the markets of Sceaux and Poissy ; 2. The schedule of taxes on each head of stock and each pound of dressed meat entering Paris ; 3. The exemption of the new schedule from all accessory or supplemental duties and claims ; 4. The suppression of the Caisse de Poissy, and cancels the lease of Bouchinet and his sureties, while extending to him the accustomed rights and privileges in collecting such sums as he may have advanced before the execution of the edict ; 5. The enactment of freedom of time, place and conditions of bargain between foreign drovers and the butchers, and equal opportunity to any and all to loan money to butchers on terms mutually agreed upon.

IV. *Changes on taxes on suet.* The last of the edicts had for its object a care which had caused the government anxiety and concern for more than two centuries. The administration had taken "imaginary precautions," as Turgot styles them, to provide the abundance and cheapness of a substance which was of such immediate and pressing need to the people. They depended on the supply of tallow and suet for their lights, and needed it in less degree as an article of food. In 1567 and 1577 rules were promulgated, which were maintained by later decisions and writs, all looking to the assurance of this

necessary commodity in suitable quantities ; and these provisions reflect the unique ideas of the period concerning economic legislation.

The butchers, who collected the suet and tallow from the animals they killed, might render the suet, but were denied freedom in selling it; the chandlers were organized into a guild, and they alone could buy from the butchers at a uniform price, and on certain specified days when the suet must be exposed for sale and division among the master chandlers. Heavy import duties were laid on the commodity, and as a result, no suet was consumed in the city except what was secured from the animals killed within the city walls. In 1768, Louis XV. moderated the import duties in favor of the guild of master chandlers, permitted them, as a guild, to import suet, and made it subject to the same rules of division and sale as were applied to that produced within the city. As part of his general scheme against the guild system, and because the old rules had proved to be directly contrary in effect to the ends sought, Turgot decreed by this edict, which was in the form of letters patent, the abolition of the guild and the destruction of the effective monopoly it exercised against the community in this branch of trade.

This edict also is in eight articles, the first of which enacts full freedom of butchers to sell and chandlers to purchase at such times, places, and in such quantities as seem good to them ; Article II abolishes the tax of one sou per pound on the sale of suet in Paris ; Article III compensates for the amount of that tax by a moderate additional tax on the entrance of animals into the city ; Article IV exempts the tax from all accessory and supplemental duties and claims ; Article V reduces the tax of entrance on suet to six deniers per pound of tallow or suet ; Article VI abolishes all additional taxes on the entrance of foreign suet into the city ; Article VII provides for the collection of the taxes by the regular channels, and Article VIII annuls all rules and laws contrary to the provisions of the edict.

CHAPTER III

ANALYSIS OF THE EDICT SUPPRESSING THE CORVÉE

I. *Principles*

As already pointed out, two of the Six Edicts dealt with conditions throughout the kingdom and were of national scope and application. Turgot himself regarded the abolition of trade restrictions on the grain traffic as the most important of them all, and looked upon the overthrow of the guild system as second to that. To the privileged classes of the kingdom, however, the Edict abolishing the corvée was the most sinister in all of its aspects, and the most detestable. The corvée in itself was comparatively unimportant in their eyes; the tax by which it was to be replaced was the first open attack by the reform Minister on the economic privileges which in his mind were largely responsible for the ruin of the State. And the issue was sharply joined; so sharply, in fact, that writers on that epoch have been compelled to take sides, either favoring or opposing the views elaborated in the preamble of the edict, a non-committal view being well nigh impossible. In addition to the conservative and well-balanced judgments to which Mr. Ashley adverts, the conclusions of M. Levasseur should be emphasized; few writings appeal to the reader with a more obvious sense of fairness than his.¹

The best commentary on the principles involved in the edict are found in the elaborate observations made on the preamble and on the several clauses of the edict by the Chancellor, M. le Garde des Sceaux Meroménil, and the even more elaborate

¹ Levasseur, *Histoire des Classes Ouvrières avant 1789*, pp. 608, 635 ff.
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counter-arguments by Turgot. Mr. Stephens quotes briefly from this most instructive controversy, but inasmuch as his work is intended more for popular reading than otherwise, he felt free to take wide liberty, on occasion, with the text and to omit the parts of the discussion which are of the most value to the student of history and of economics. Dr. Oncken complains of the "Schulmeisteratur" of the author which is obvious in the preambles of the edicts and which is displayed by them "in a drastic light."¹ But the scrupulously careful Doctor fails utterly to take note of this most comprehensive and adequate defense of his positions by Turgot. And this document, taken in connection with the Memoir, especially that part already quoted, shows that Turgot had not underestimated the weight and power of the opposition, as some of his critics aver, nor was he the enthusiastic "Wundermann" or embodiment of "übertriebener Doktrinarismus"² which Dr. Oncken conceives. History shows the truth of his forecast of the revolution close at hand; what was done to avert it must be done quickly, uncompromisingly, and thoroughly. And that Turgot had weighed the pros and cons of the immediate situation appears from an impartial study of this controversial document and the preamble which gave rise to it—a study vastly more profitable than a critical study which ignores them entirely.

With the good-hearted but relatively impotent Malesherbes, Turgot stood alone in the Council for these radical reforms. When the king submitted the edicts to the Council, Mero-ménil wrote his shrewdly worded protest in the form of observations which, said he, "are less designed to oppose the edict (abolishing the corvée) by open contradiction than to discuss, according to its merits, so important a matter." The manuscript containing these observations was submitted to Turgot in turn, and the whole field of economic privileges

¹ Oncken, *Geschichte der Nationalökonomie*, p. 449.

² *Ibid.*, pp. 446, 457.

accorded to the nobility and the clergy was gone over in the course of the debate.

The corvée was a device for building roads, very similar in many of its features to the road tax imposed in many of the states of this country for this same purpose. During the later years of the reign of Louis XIV, according to Turgot, when an occasion arose demanding speedy transport of munitions of war, the peasants were drafted to compulsory service in making suitable passage for the army supplies. There was neither money nor time to make the roads otherwise. Certain intendants of provinces subsequently made use of the means which had met this first emergency, when some roads had been built, others were projected, and by degrees the custom became general, and was officially recognized in 1737 by Controller-General Orry, in letters of instruction to the intendants, on drafting the peasants of a neighboring district for fifteen days' labor, without compensation, and at their own expense for living during that time. The length of time allotted for the work did not permit of any great advance in the making of roads, which were necessarily constructed in separate fragments, and by the time the occasion returned for drafting a new corvée, the roads which had been built were frequently in such dilapidation that the cost of repair amounted to a large part of the original cost. Moreover, as the corvée was levied on draft animals and carts, as well as on the peasants themselves, work in the fields was necessarily stopped during the absence of the laborers, their families were left to shift for themselves, while the ignorant peasants were doing a work in which they had no interest.

In the preamble to the edict abolishing this custom, Turgot sought to establish but two points concerning it. He held that the corvée was an economic waste, incomparably more costly than the same work done by contract and for a money consideration; and that aside from this loss to the state, it was essentially unjust in principle. The class of workers subject to the draft were those who were already on the margin of

starvation because of other wild fiscal and industrial policies of the administration ; they were driven to work for something from which the owners of land chiefly profited, and in which they themselves had no hope of profit or advantage. From his own experience in Limousin, Turgot assures the king that nothing more cruel is laid on the people than this exaction. It robbed those who had only their hands whereby to support themselves and their families of their sole means of subsistence; it inevitably took laborers from work in the fields which no amount of compensation could make good; it was a variable charge that no farmer could forecast in stipulating the terms of his lease from the proprietor, and added infinitely more to his burdens than it gave in profit to any one, least of all to himself. But the roads were a public necessity; for the development of the country, for the safety and security of travellers, for the use of the state itself in times of peace and war; every incentive moved the state to provide for the building of the highways. Could the state continue a custom at once so costly and so unjust? Obviously not, thought Turgot, if any other means could be provided which would be at once cheaper and more equitable.

For ten years, in the *Généralité* of Limoges, he had pursued another policy, with the written consent of the Controller-General, and in that time he had constructed more roadway than had been built in the preceding forty years, and the roads so built were durable. With experience behind him, Turgot saw the way to make general throughout the kingdom the policy of his province. He would abolish the *corvée*, and build the roads by contract, with the general government and public contractors as the parties; he would have each intendant report yearly on the amount of highways to be built in his *généralité*; all the reports would be considered in the Council, a definite amount let for each district, copies of the contracts deposited in public places in the Court of Parlement, in the Court of Aides, and in the Bureaux of Finance in the different

généralités. These contracts being open to public examination would serve as a check on the government, and all might know whether the sums accumulated for the purpose were being expended according to agreement. The amounts of the expenditure would be assessed on all owners of land, inasmuch as they were the ones immediately profited by this expenditure of public money; they would have immediate return in the way of increased value of the property, their commodities would be brought within easy reach of more markets, assuring better, quicker and more profitable sales, and, by consequence, larger returns on the lands benefited; and this facility of market could not fail to stimulate agriculture and to bring further immediate profits in the way of larger rents for their lands. The program looked simple enough. It was reasonable. It was just.

But Turgot had not been a public character for more than twenty years without knowing the people with whom he had to deal; he knew well enough that the reason and justice of the thing would in no way free it from a most determined opposition. In the Memoir he writes to the king: "The tax is susceptible of difficulties; but when a thing is recognized as just, when it is an absolute necessity, it must not be withheld because of difficulties: they must be overcome."

"The first of these difficulties consists in the repugnance which the *privilégiés* in general feel toward submitting themselves to a charge, new to them, which the *taillables* have alone borne heretofore."

"All those who have to deliberate on the registration of the law are *privilégiés*, and one cannot flatter himself they will all be above that personal interest, which is not, however, widespread. It is probable that that motive will secretly inspire a great part of the objections which they will make. It will in no way be surprising if many publicly avow that motive, nor even if they find plausible and specious excuses to give it color. The solution of that difficulty lies in Your Majesty's

justice and in his warm desire to execute what is dictated by that."

Turgot had counted the cost. He knew as well as modern statesmen the force and power of greed which had been taught to fatten at the public treasury. But he counted confidently on the justice of his position to win its way ultimately with the public opinion he was seeking to create, and as confidently depended on beneficent authority to stand with him during the crucial period which must elapse before the power of the public mind could make itself felt.

II. *Criticisms and Defense.* Interest in his discussion with Chancellor Miroménil centers not so much in the fallacious arguments brought against the course mapped out by the edict, as in the logical grounds, built upon history and individual experience by which Turgot justified his course.

After discussing the origin of the custom of the *corvée*, the Chancellor argues that Turgot's predecessors in office, MM. Orry and Trudaine, must have preferred the *corvée* to the tax for four reasons: 1. That work on the roads could be adequately done, whatever the quality of the laborers, if the engineers and their employes gave close attention to the use of materials, etc. 2. That even if a greater number of days' labor were required by the *corvée*, when the roads were once built, the work of repair would require but a few days in each year. 3. That the *corvée* labor could be assigned to times of the year when the peasants were least employed, and thus be made less burdensome. 4. That all its evils might be mitigated by carefully apportioning the labor among the parishes and providing that laborers be not summoned from too great a distance. "It is to such matters," says Miroménil, "that MM. the Intendants should devote themselves, as they notably have done, in the *généralités* where that administration is entrusted to men who are active, vigilant, and exact." To which Turgot rejoins:

"In the four paragraphs just read, and in that which follows,

it is attempted to prove that it is absolutely necessary to continue the corvée, by avoiding a part of the inconvenience of that method which I have developed in the preamble."

"I reply that while it may be true that, with constant vigilance on the part of chiefs and subalterns, the corvée may be made tolerable, it will always be a very poor system of administration which demands perfect administrators. If the administrator is weak, or negligent, or blunders, who is it suffers? the people: who bears the loss? the State."

"No complicated plan can be carried out without great intelligence and great labor; then all complicated plans will generally be failures. Such a plan is the corvée."

"I reply, in the second place, that with the exception of a small number of provinces where the nature of the soil, the quality of the material, the number of inhabitants and the kind of police established in the community make the administration of the corvée a little more easy, it is generally impossible for the most active and best-intentioned administrator to prevent its abuse."

"As for the consideration that repairs will cost less than first construction, it may be replied that there is a long time yet for the building of new roads, and that according to the measure of their construction will the mass of repairs increase. Besides, it is precisely in the corvée for repair that the difference between the burden of the corvée and the expense in money is most striking.

"In the provinces where the stones were soft, as in the Généralité of La Rochelle, and le Barry, the cost of repairing the roads is one-half that of construction; in Limousin, where the stones are better, repairs do not cost above one-fourth of the first cost of the work, but I ought to add that initial construction for a money consideration is much cheaper than by corvée."

"As for the eminent qualities which *M. le Gardes des Sceaux* indicates as able, on the part of the administration, to

mitigate the régime of the corvées, I would ask if he flatters himself, if any one could flatter himself that he may find in all, or even in any considerable number of the provinces, many persons who are active, vigilant and exact, to whom he could with reason entrust the varied responsibilities?"

The Chancellor observes that the landowners, who seem at first glance to be the happiest and most opulent of the subjects of the king, are in reality those who bear the heaviest charge, and, when it is necessary to employ those who have nothing but their hands, supply the means of employment. To which Turgot characteristically replies: "M. Trudaine surely had no thought that proprietors, especially privileged owners of land, were the ones who bore the heaviest charges. He was profoundly convinced, and often said to me that, in the last analysis, all taxes fell on proprietors of land, either by way of increased expenditure or by decrease of revenue. He held that in common with all those who have studied into the nature and effects of taxation. But though the proprietor does feel the blow which ruins his farmer, it does not follow that the farmer is not more wretched than the master himself. When a post-horse falls, overcome by fatigue, his rider falls also, but the horse has the greater reason for complaint.

"The proprietors, by their expenditure, do furnish a livelihood to the men who have only their hands; but by their money the proprietors enjoy all the comforts of life. The day laborer toils and by his sweat ekes out a meagre existence. But when he is forced to work for nothing, there is taken from him even the resource of subsisting by his labor on the expenditure of the wealthy."

Chancellor: "Proprietors are not the only ones to profit by well kept roads. Travellers, *rouliers*, and even peasants who go on foot, profit equally: the travellers who cover more ground in less time and at less expense, the *rouliers* fatigue their horses less and use their coaches and carriages less; the simple peasant who goes on foot walks more easily on a smooth

road than on a rough one, and loses less time when obliged to go away from home. Consequently, the advantages of highways are distributed proportionately to all the subjects of the king."

Turgot: "Travellers do profit from the beauty of roads which afford them quick transit. The beauty of good roads attracts travellers and multiplies their number. These travellers spend their money and consume the commodities of the country, which always turns to the profit of the proprietor. As for the *routiers*, their coach expenses are less in proportion as they are a shorter time on the road, and they save, further, their equipages and their horses. From that diminution of the cost of carriage results the facility of transporting their products further and selling them to better advantage. Thus, every advantage is for the owner of lands who sells his products more profitably."

"With regard to the peasants who go on foot, *M. le Garde des Sceaux* will permit me to believe that the complacency of walking on well-ballasted roads is no compensation for the pain of making them without wages."

The Chancellor then goes on to insist that all the subjects do contribute proportionately for the making of roads, inasmuch as the tax for bridges and culverts is paid by the proprietors. *Turgot* dismisses the question of the bridge fund as irrelevant, and insists that at best the tax mentioned is part of the second *brevet* imposed, together with the *taille*, and that the *privilegiés* who own and improve a great part of the territory of France are exempt from that tax. And then, replying to the argument that the farmer anticipates the taxes to which the land is liable, in fixing his lease and its terms, *Turgot* launches into one of his longest and most interesting arguments concerning the advantages possessed by the privileged owners of land, whether ecclesiastics, nobles, or those who enjoy the privileges of the nobility. He adduces eight specific economic advantages in the way of exemptions which the

privilégiés enjoy over the unprivileged owners and *taillables* without property. These points of advantage, being themselves summaries, are difficult to state more succinctly than Turgot himself puts them, and because of their historic and scientific importance, they are here given in his own language:

"1. Proprietors *ecclésiastiques*, Nobles, or those who enjoy the privileges of the Nobility, may be worth, exempt from every imposition of the *taille*, a farm of four *charrues* which ordinarily pays, in the environs of Paris, about 2000 francs in taxes. First advantage."

"2. The same *privilégiés* pay absolutely nothing for the forests, meadows, vineyards, ponds, enclosed lands which contain their *chateau*, of whatever extent they may be, and all without prejudice to the privilege of four *charrues*. There are wide districts where the chief production is from meadows and vineyards; there the Noble who controls these lands is exempt from all tax, which falls to the charge of the *taillable*. Second advantage, which is immense."

"I cannot refuse myself the opportunity of observing here that that privilege affords a strong incentive to put into meadow and vineyard a great quantity of land suited to raise wheat. The contrast of that legislation with the fear that liberty of trade in grain will deprive the realm of subsistence merits consideration."

"3. The Nobles pay absolutely nothing but the twentieth for the seigniorial incomes, the feudal tithes and all the profits of fief. These objects, which are but a minor matter in the vicinity of Paris, absorb in the distant provinces a very large part of the net revenue from land. Third advantage of the Nobles."

"4. In the provinces where it has been sought to establish the *taille* proportionately, it has been contrived to divide the tax between the *taillable* proprietor and his farmer or colon. In some provinces a half of the tax assessed on land has been charged to the farmers, under the name of *taille d'exploitation*;

the other half to the proprietors, under the name of *taille de propriété*; in other provinces the *taille d'exploitation* has been assessed at two-thirds and the *taille de propriété* at one-third. It happens from this that in these provinces, the Nobles, besides the exemption they enjoy on what they improve for themselves, enjoy the additional exemption of one-half or two-thirds of the taxes imposed on the lands they farm out or rent. Fourth advantage to Nobles."

"5. The Nobles are indeed assessed to the capitation, as the *taillables*, but not in the same proportion. The capitation is by its nature an arbitrary tax. It has been impossible to apportion it to all citizens otherwise than blindly. It was found convenient to take as the basis of it the lists of *tailles* which all were bound to pay. The capitation of *taillables* has become an accessory tax of the *taille*, and a particular list was made for the Nobles; but since the Nobles defended themselves and the *taillables* had no one to speak in their behalf, it happens that the capitation of the Nobles in the provinces is reduced to a most modest amount, whereas the capitation of *taillables* is nearly equal to the principal of the *taille*. It further happens from this that all the privileges granted to the lands of Nobles involve a proportionate privilege under the capitation, although, according to its institution, that last tax should be assessed to all subjects of the king according to their abilities. Fifth advantage of the Nobles."

"6. I have had some occasion to explain to the king the difference between the provinces where the lands are exploited by wealthy farmers, who make the advances of cultivation and are bound by a lease to give a fixed sum annually to their proprietors; and other provinces where, owing to lack of wealthy farmers, the proprietors are obliged to rent their lands to poor peasants who are in no position to make any advances, and to whom the proprietor furnishes beasts, the implements of husbandry, seeds, and whatever is required for their support until the next harvest; then all the products are divided

in half between the proprietor and the colon, who for that reason is called a *métayer*. That custom which has almost the force of a law, to divide the products in half, was introduced in a time when the *taille* and other taxes were not established; it was then advantageous, probably, to both parties; the proprietor could get sufficient profit from his land, and the colon could live and support his family in some sort of comfort. It is evident that when the *taille* and all other taxes came to fall on the head of the unfortunate *métayer*, all equality in the division was destroyed, and he was reduced to the greatest misery. His ruin was more or less complete according to the different degrees of fertility of the land, according to the greater or less expense required for cultivation, and according to the higher or lower value of commodities."

"In some provinces, particularly in Limousin, the misery of cultivators is such that, in spite of the law and privileges, it has become necessary for proprietors, even privileged, in order to find colons, to consent voluntarily to pay part of the tax assessed to their colons, and in this way to correct the excessive severity of the law."

"But it is to be observed that this condescension of the proprietors being free, and all the law being against the colon, the proprietor indulges that kind of liberality to the precise point which is necessary to prevent his lands from lying waste, and that he puts on the cultivator every charge he can possibly bear without falling into despair and industrial impotence. Certainly the proprietors gain nothing by that state of affairs. They would be wealthier if their tenants lived in comfort, but they have at all events that advantage which comparative ease has over profound wretchedness. This is a sixth advantage of the privileged proprietors over the *taillable* cultivators. It must be confessed that the advantage to them is not so great as the disadvantage of the latter."

"7. The farmer and colon being the only ones on the rôle, it is against them alone that prosecutions may be directed;

they consequently must bear all the cost, all consequences of delays in payments, the seizures, sheriff's executions, collectors, in short, everything involved in the way of vexations and abuse in collecting a very heavy tax, often badly apportioned, and assessed on that portion of the people whose ignorance and poverty deprive them of all means of defence against every kind of vexation. This is still a seventh advantage of the *privilégiés* over the people; but as with the preceding one, it is much greater as a disadvantage to the people."

"8. It may also be regarded as another great disadvantage to the people, but truly without any corresponding advantage to the proprietor, that it is impossible for the farmer, when determining the conditions of his lease, to make any exact calculation of the charges it will, in his hands, have to bear, and of which *M. le Garde des Sceaux* speaks. It is well-known that the taxes of the *taillables* vary greatly, and much oftener by way of increase than in diminution. In case of war, the *taillables* must pay the tax known as *d'utensile* or *quartier d'hiver*. But to return to our subject, the corvée is not, of all of them, a regular charge; it varies each year; and when a new route is opened in a canton, laborers are often drafted to the corvée from parishes wherein it has never been known.

"These additional charges which come in during the course of leases, and for which no law authorizes the farmer to indemnify himself, wholly disarrange the plans which he may have made, and often work his ruin."

"I believe I have demonstrated that *taille* taxes are a much greater charge to *taillables* than to proprietors who are not *taillables*; not but that it may be true also, as M. Trudaine says, that the proprietor always in the last analysis pays all the taxes; but even though he pays them, it is by a circuit foreign to the point of view which *M. le Garde des Sceaux* raises, and which I have been discussing. To follow out that circuit requires, for its full development, a long chain of reasonings which it is out of place for me to make here."

After this exposition, there follows a short colloquy between the Chancellor and Turgot which deserves to be quoted:

Chancellor: "Men who have nothing but their hands pay almost nothing in taxes."

Turgot: "That is the question, and it should not be a question in the matter of the *corvée*. Now, surely those who have nothing but their hands do contribute to that in the most exorbitant proportion. A man who has nothing on which to live, both for himself and his family, but what he gains by his work, and from whom is required fifteen days of his time during which he must work for nothing and with no provision for his sustenance, does contribute too much to the making of roads."

Chancellor: "The price of commodities cannot increase without the wages of laborers increasing also; and if the tax is put upon the proprietors alone it will be borne only by those whose *aisance* is the sole resource for assuring the subsistence of day-laborers."

Turgot: "It is doubtless very true (although the contrary does not fail to be insisted on when it is desired to make freedom of trade in grain odious) that the price of commodities cannot increase steadily without raising the wages of labor; but the proprietor begins immediately to be enriched, while the man who works by the day never has more than is necessary for his subsistence. It is the proprietor's comfort which assures to day-laborers not comforts but necessities; now, it is the one whose comfort is augmented by the application of labor to the roads who is really benefited by it, and who ought to pay for it."

Chancellor: "There is a strong probability that it was these considerations which led M. Orry and M. Trudaine to prefer the *corvée* of hands and of animals to a tax on proprietors. And in fact, careful and attentive reflection on them, perhaps, might cause the appearance of injustice in the *corvées* to diminish, if they would not cause it to disappear wholly."

Turgot: "I have already mentioned the reason which seems to have led M. Orry to prefer the corvée. I strongly suspect that he had another. The corvée could be established imperceptibly, and made to grow heavier by degrees on a people who did not resist, whereas it would be necessary to make public the project of a tax, to cause it to be registered, and to endure murmurings. We are in a more advantageous position to-day, inasmuch as the corvée, being wholly established and being recognized as excessively onerous and unjust, must be replaced."

After calling attention to some minor objections to the general policy proposed in the edict, the Chancellor contends that, as labor cost will increase in proportion to increased prices of commodities, there is danger that building the roads by contract may increase so as to retard the making of roads. To this proposition *Turgot* advances an argument which, taken in connection with another made a little later, states in compact and concise terms his theory of taxation. He says:

"If the increase of the cost of day laborers comes from the increase of the cost of commodities, which the proprietors will have in greater abundance, the tax will be less onerous. And what is said here of this expense is equally true of all the expenses of the king. If the realm becomes generally more wealthy, if there is more money, more capital, and greater activity in industry and trade, all the king's expenses will increase proportionately. Everything is dearer in France than in Poland, everything is dearer in England and in Holland than in France. If France, in proportion to its extent, were as wealthy as Holland, the people would surely be in position to pay taxes in proportion to the expense which the increase of that wealth made necessary, and no one would have cause for complaint."

"The policy of an administrator should foresee that case, and if at any time the order and regularity of a system of finance, which ought to be the first object of an intelligent

administrator, permits the king to fix, by an invariable law, the share of the tax in proportion to the abilities of the people and to the necessary expenses of the state, it would be wise to regulate by the same law the increase of taxes proportionately to the increase in the value of commodities. We are far from believing that that time is at hand, and it is vain to be occupied with it; it is improbable that the increase in the price of commodities, as an effect of the enhanced beauty of the roads, will be so rapid as to give us no time to reflect on the means to ward off that slight inconvenience."

Commenting on the one valid objection to the tax, that the exigencies of the state may cause it to be diverted to other uses, and the people have no roads to show for the taxes paid for that object, Turgot remarks that having occupied so much space in the preamble to develop the precautions taken to forestall that course, he feels that further argument on that point is superfluous, but takes occasion to say: "I will add, however, one reflection, and that is, that the danger of using the funds for another purpose is not here a real danger, that the danger is altogether nothing if the *corvée* be not re-established. I believe that the actual barrier against that re-establishment of the *corvée* is the declaration which the king will make of his sentiments, in a preamble of the edict. But if there be any fear that it be re-established, I venture to say that the diversion of the funds becomes nothing more than a mere matter of terms. For example, suppose a war breaks out: all road work must be reduced to simple repair. Then the administration may take one of two courses: the one to continue the tax and to apply to the expenses of the war the excess of the amounts which has ceased to be expended on the roads; the other, to increase otherwise the extraordinary taxes which all wars cause to be established."

"I observe, first, that these two courses are, at bottom, indifferent to the people who, in the two cases, pay the same sums, and to whom the name of the tax is unimportant. I

think that the difficulty of instituting a new tax cannot be set up as an objection ; that difficulty is always nothing in time of war, when imperious necessity sways and surmounts everything."

" But, if the choice between the two courses is in reality indifferent to the people, since it is not so in their opinion, since the change in destination of road funds disquiets and unsettles the public, and affords a most obvious basis for complaints and other representations, a minister would be the most maladroit of all men if he should prefer that course to one altogether easier and more open, to procure the same funds by a new tax; he would make himself odious and disgrace himself for nothing."

And in the next argument, concerning the diversion of the tax for bridges and roads, Turgot mentions the provision for depositing for public reference the schedule for each *généralité*, and resumes: " Now, is it credible that this deposit will not excite the liveliest complaints, if, during the preceding year the solemnly pledged destination of that tax had been violated? Is it credible that these remonstrances, so just in every way, would not be more dreaded by the minister than those which would oppose the registration of a new tax? Remonstrances and remonstrances, which ought he to prefer to endure? without question those to which he may oppose the peremptory reply of the inevitable needs occasioned by war, and not those which accuse him personally of bad faith, and which leave him no reasonable defense whatsoever. It is not really necessary to suppose the minister an honest man, it is sufficient to suppose him merely a man of good sense, to believe that he will prefer to diminish the road tax and to impose the same amount under another name rather than to divert that tax from its destination.

In commenting on article II of the edict, the Chancellor comes to the real point of his whole opposition to the edict. He says:

"I will not repeat here what I have said in my observations on the preamble of the edict, relative to the general inconvenience which may be found in the establishment of a territorial tax substituted for the *corvée* of hands and beasts; but I will observe that it may be dangerous to overthrow absolutely all those privileges. I am not speaking of those which are attached to certain offices, which I willingly regard only as abuses acquired for a price in money, but of the veritable privileges. And I cannot refuse to say that in France the privilege of the Nobility ought to be respected, and it is, I believe, to the interests of the king to maintain it."

Turgot shows himself thoroughly alive to the significance of this claim. In answering it, he goes into the most lengthy argument of the entire debate. In it he touches on more of his fundamental economic and political doctrines than in almost any other of his writings. The study and articulation of the doctrines developed in this argument are sufficient to refute many of Dr. Oncken's unfavorable comments on Turgot as a statesman and as a theorist. The doctrines herein developed, are the tested theories of a mature mind, launched in the face of the avalanche of protest from privilege and prejudice, and they deserve much more study and analysis, from this standpoint, than they have yet received. Bearing in mind all of Turgot's earlier experience with economic privilege and his inveterate hostility to it, the argument is interesting in its every sentence. Because of this supreme interest we shall quote this hitherto untranslated passage of several pages practically in full. Turgot says:

"M. le Garde des Sceaux seems to adopt the principle that, by the constitution of the State, the Nobility must be exempt from all tax. He even seems to believe that it is a universal precedent, dangerous to violate. If that precedent is universal, it must be that I have been strangely deceived in the character of thought of all the well-informed men whom I have met in the entire course of my life; for I am unable to recall any

society where that idea has been regarded otherwise than as an antiquated pretension, and abandoned by all intelligent men (*éclairés*), even in the order of the noblesse."

"That idea will seem, on the contrary, a paradox to the greater part of the nation whose interests it touches to the quick. The commoners (*roturiers*) are certainly the most numerous, and we are not yet at the time when their views are not to be reckoned with."

"Furthermore, the proposition must be discussed on its merits."

"If it is looked at from the side of natural right and the general principles of the constitution of society, it presents the most marked injustice."

"What is a tax? Is it a charge imposed by force upon the weak? That idea would be analogous to that of a government founded only on the right of conquest. Then the prince would be regarded as the common enemy of the society; the strongest would defend themselves as they were able, the weak would succumb and be wiped out. Then it would be altogether simple for the rich and powerful to shoulder every charge on the weak and the poor, and they would be very jealous of that privilege."

"That is not the idea one has of a paternal government, based on a national constitution whereby the monarch is raised above all in order to assure the welfare of all; where he is the depository of the public power (*puissance*) in order to maintain the property of each within the land, by justice, and to defend it from attacks from without, by military force. The expenses of the government having for their object the interests of all, all ought to contribute to them; and the more one enjoys the advantages of the society, the more ought it to be held a matter of honor to participate in these charges. From this point of view it is difficult to make the pecuniary privilege of the nobility seem just."

"If the question is considered from the humanitarian side,

it is extremely difficult to congratulate one's self upon being exempt from taxes, as a nobleman, when one sees them snatched from the copper pot of the peasant."

"If one examines the question from the side of political advantage and national strength, it is seen from the first, that if the *privilegies* are very numerous and possess a great part of the wealth; since the expenses of the State require a great sum, it may happen that that sum surpasses the faculties of those who remain subject to the tax. Then it must follow, that when the government is deprived of the means of defense which it needs, or when the people who are non-privileged are charged beyond their faculties, the State is surely greatly impoverished and weakened. A great number of wealthy *privilegiés* is, then, an actual diminution of the strength of the kingdom."

Turgot: "Privileges in the matter of taxes are a further inconvenience, very prejudicial to nations, by the necessity they make of adopting poor forms of taxes to elude these privileges, and compelling the *privilegiés* to pay without their knowing it."

"It is because payment cannot be exacted from the Nobles and the ecclesiastics that their farmers and miserable *métayers* are compelled to pay. From this arises the fact that all the vices of apportionment of the *taille* and of the method of its recovery are perpetuated, although the whole world is apprised of the sad effects of them. It is in order to elude the privileges that taxes on consumption and on merchandise are multiplied; that the monopolies of salt and tobacco have been established, baleful because of the magnitude of the sum they cost the people, and because they procure to the king only an exceedingly slender revenue; more disastrous yet by the existence of a new army of smugglers and hawkers (*commis*) lost to all useful employments, engaged only in self-destruction by the murders and tortures which they occasion, owing, on the one hand to the allurements of fraud, and on the other to the necessity of repressing it."

"Privileges have produced these evils. Respect for the *privilégiés* has prevented any attempt to touch them; for how is it possible to suppress the tax on salt, how to suppress the monopoly of tobacco, if the clergy, if the ecclesiastics who pay the tax on these two articles of consumption cannot be subjected to what might be established by way of replacement? All that I am saying is an obvious truth, and is not, I venture to believe, disputed by any one who has reflected on the matter, without having his mind filled with personal interest."

"Does it follow that all privileges must be destroyed? No: I know as well as all others that it is always necessary to make the best possible of the situation; and that, if one should not disclaim all efforts to correct, little by little, the defects of an ancient constitution, he can only work slowly, in the measure that public opinion and the course of events make the changes possible."

"It would be absurd to wish to make the nobility and the clergy pay the *taille*, because, in the provinces where the *taille* is personal, precedents have attached to that tax an idea of degradation; but on the other hand, it would be a strange view in an administrator that he should wish to suppress the capitation and the twentieth, or even to exempt from them the nobility, on the ground that, in the ancient constitution of the monarchy, the nobles paid no taxes."

"I conclude from all this, that it is necessary to allow the privilege of the nobility, with respect to the *taille*, to continue as a thing established and which it would be unwise to change; but it is not necessary to be deceived by it, nor to regard it as a thing just in itself, much less as a useful thing. (I am ready to discuss by the hour the elements of utility which *M. le Garde des Sceaux* believes he sees in it.) Above all, I conclude that in conserving that privilege, it must be guarded from being extended to new objects; that it is necessary, on the contrary, to hold it close, and with care, within its present bounds; that it is necessary even, as much as may be possi-

ble, to restrict it by degrees where it is too exorbitant; in a word, to follow in that regard the course which all the ministers of finance have constantly pursued for the past eighty years or more; for there is not one of them but has sought constantly to restrict in general all privileges, without excepting those of the nobility."

"An historical examination of the privileges of the nobility, and a comparison of the circumstances in which it arose with present circumstances, proves how just was the habit of thought of my predecessors in that regard; and that, far from madly disturbing the constitution of the monarchy, they have, on the contrary, wisely sought to bring together the provisions of the present constitution, by weakening the prerogatives born under a constitution which has not existed for a long time, and which cannot and ought not to be re-established."

"It can never happen, and it has never happened in any country, that a deliberate policy is adopted of giving to one part of the nation, and that the wealthiest part, the privileged right of contributing nothing to the expense of the state. Such a policy has no more been pursued in France than elsewhere. In the primitive constitution of the monarchy the noblesse was far from being exempt from public charges, but was, on the contrary, alone charged with administering justice, and with rendering military service. That double obligation was attached to the possession of fiefs. It is well-known that the noble was obliged to serve at his own expense without receiving any pay from the prince. It was doubtless a pernicious institution since it deprived the state of actual force without, and the monarch of sufficient power within; experience revealed the vices of that institution. As the kings extended their authority, and in order to strengthen it more and more, they busied themselves in forming by degrees a better constitution. It was only under Charles VIII, after the expulsion of the English, that the trial was made of a standing militia, serving under pay, in order that an army might always be ready

in case of need, and that internal tranquillity might be assured by a police a somewhat more efficient police. It was in that epoch that the *taille* was permanently established."

Here Turgot refers to the historical sources of the exemptions of the nobility, tracing the subjugation of the feudal lords to the Monarch and the personal service they were held to render to him, with all their retainers, and to dispense justice in the name of the king; the gradually developed necessity of a standing army in the king's pay, and the very apparent difficulty of laying this expense upon the nobility who are nevertheless not exempt from their military and judicial obligations. The *taille* was levied first in the name of the king for the support of the military service. The same name had been given to the exactions imposed by the feudal lords upon their serfs, and this made it the more repugnant to the nobles, and furnished a plausible excuse for exempting them from it.

After tracing the rise of the taxes known as the *tenth* and the *capitation*, Turgot resumes the argument:

"The privilege was originally based on the fact that the Nobility alone was charged with military service, which it gave in person and at its own charges. Now, on one side, that personal service, having become more incommodious than useful, has fallen wholly into desuetude; on the other, the entire military power of the state reposes in a large army constantly maintained and paid by the State. The Nobility which serves in that army is paid by the state, and is paid no less in amount than the plebeians who fill the same grades. Not only are the Nobles under no obligation to serve, but on the contrary, it is the commoners alone who are compelled to serve, since the establishment of the *milices*, from which the Nobles, and even their valets, are exempt."

"It is proved, then, that the conditions which supplied the motive in which the privilege was grounded, subsist no longer."

"To the immense expenses of maintaining the army are

added those of fortresses and artillery, the institution of a strong marine, the expense of protecting the colonies and commerce, those of internal improvements of all kinds, and finally an enormous burden of debts, the result of long and unfortunate wars. There has never existed at any time any motive to exempt the nobility from contributing to these expenses."

"The privilege which it has enjoyed may be respected by virtue of possession, prescription or concession, if it is so desired; but there is no reason for extending it to all taxes and to all the expenses which had no existence at the time the privilege was instituted. Not only would that extension be without foundation, it would be unjust, it would be impossible."

"When a charge is very heavy, inequality in apportioning it always violates the course of justice, and becomes besides a source of great evil. If two men have a charge of two livres to meet between them, one of them may be made to carry the whole charge upon himself without inconvenience. If the charge is two hundred livres, the one who bears it alone will have all he can meet, and he will regard it as a grievance that the other pays nothing; but if the burden is four hundred livres, it is absolutely necessary that it be divided equally between them, lest the one who may be charged with the whole weight of it should sink beneath it, succumb to the weight, and the burden not be carried at all. It is not otherwise with taxes: in the measure in which they are increased, the privilege becomes more unjust, more of a burden on the people, and at last it becomes impossible to maintain it."

"A further reason establishes the fact that the privilege is more unjust and onerous, and at the same less respectable: the facility with which the rank of nobility may be acquired for a money consideration. No wealthy man fails to become, on the spot, a noble; consequently the body of nobles comprises the whole body of the rich, and the cause of the *privilègiés* is no longer that of distinguished families against plebeians, but has become the cause of the rich against the poor. The

motives which might cause one to respect the privilege, had it been extended only to the ancient defenders of the State, surely cannot move one to regard it in the same light, when that privilege has become common to the tax farmers who have plundered the State. Besides this, what sort of administration would it be, which would load all these public charges on the poor in order to exempt the rich! These reasons have appealed strongly to all the administrators of finance."

To fortify further his position against taxing the *privilégiés* for a work the *taillables* alone have endured, the Chancellor adds two arguments which, with Turgot's replies, deserve to be added:

Chancellor: "Take away from the nobility its distinctions, you destroy the national character, and the nation, ceasing to be warlike, will soon be the prey of neighboring nations." To be convinced of the truth of this, it is only necessary to glance over the principal revolutions France has experienced under the reign of many of our kings. That of Louis XIV., in the time of his adversity, furnishes a case sufficiently in point."

Turgot: "The nations in which the nobility pays taxes as do the rest of the people are not less martial than ours." In our nation, the plebeians are not poltroons, and in the provinces of genuine *taille*, in Languedoc, in Provence, in Dauphiné, and in part of Guienne, although the nobles and the commoners are treated in exactly the same manner in the matter of the *taille*, the nobles are not less brave, not less attached to the king, nor less exalted above the commoners by all the distinctions which constitute the nobility. It cannot be believed that any of the principles of the constitution, nor the national genius has suffered any change in these provinces, and nothing in them indicates the disasters which seem to alarm *M. le Garde des Sceaux*. Neither the misfortunes of the end of the reign of Louis XIV., nor those which France has endured at other times, are in any way relevant."

Chancellor: "It will be objected to me, perhaps, that a moderate tax, apportioned to the proprietors, nobility or plebeians, in proportion to the twentieths, will not be sufficient to cause the privilege of the nobility to be regarded as destroyed. I reply that it is always the first assault which is regarded as a certain foreboding of a greater destruction of that privilege, especially when it is contrived to replace, by that tax on the Noblesse, a labor hitherto performed only by the *taillables*."

Turgot: "It is very true that the nobles contribute nothing to the *corvée*, but it does not follow from that that they ought to contribute nothing to the expense of the roads. It is not because the privilege of the nobles ought to include examples from the expense of road-making that they have contributed nothing to it; it is because it has been thought advisable to make the roads by means of the *corvée*; but it was from the first an injustice to make the roads by a means which exempted from that expense those who received most profit from it. Happily the *corvée* has never been established legally; it was introduced by degrees in an imperceptible manner and, I venture to say, by way of surprise. The *corvée* ought to be suppressed precisely because it necessitates an unjust and exorbitant privilege. By suppressing it, a return is made to true principles, to justice, in accordance with which the burden of that expense ought to be laid upon those who have an interest in it; there must not be extended over a new tax a privilege which must be conserved only over ancient taxes, with regard for precedents and old possessions."

The Keeper of the Seals then makes a plea against the provisions of the edict as they relate to the clergy, beginning his argument by saying that there are three great orders in France, the clergy, the nobility and the third estate; that each of these has its rights, its privileges, perhaps its prejudices; but that it is at least necessary to conserve them such as they are. To strike a blow at them is to weaken in the hearts of

subjects the sentiments of interest and love which it is essential they all should have for the sovereign. To this Turgot retorts, "In renouncing the plan to tax the clergy, it becomes useless to discuss in detail the objections here raised by *M. le Garde des Sceaux*."

"I will abstain, then, from proving that the gratuitous gifts of the clergy have never been on a level with those which they would have owed to acquit them of the same taxes as the nobility paid, and from which there is no reason why they should be exempt; and I will only remark in passing, that if the hundredth has become a pressing burden, it is only because there has been the manifest weakness which permitted the clergy to make these gratuitous gifts, already inadequate, by means of loans which were increased for each gratuity, and they threw forward on the ecclesiastical successors of those who seemed to be making the gift the charge which those members of the clergy should have paid who were honored through the pretended gift."

"What I have said of the privileges of the nobility applies, and with even greater force to the privileges of the clergy."

"*M. le Garde des Sceaux* mentions the privileges of the *tiers-état*. It is known that the Nobility and the clergy have privileges and that there are also in the *tiers-état* some cities and some private corporations which have them. But the *tiers-état* as a body, that is to say, the people, is very far from having privileges; it is, in fact, directly the reverse, since the burden which should have rested on those who are exempt has always fallen on those who are not."

A little later in the argument, the Chancellor refers to the opposition the clergy raised to the proposal of Controller-General de Machault, when he demanded declarations of their property from them in order to assess the tenth upon them. Turgot rejoins, rather sharply, "Since the purpose to tax the property of the clergy has been disclaimed, and that which was of some consequence, though of less prudence, will

not be done, and since this argument only demonstrates how dangerous the privileges of the orders and the *esprit de corps* are, inasmuch as they are able to interpose effective obstacles to operations which are in themselves just, the difficulty relative to the clergy is removed. *M. le Garde des Sceaux* will not forget that. It is useless to revert to it.”¹

Léon Say reports that M. de Miroménil read the answers which Turgot had written on the margins, and appended to his manuscript, and returned the packet with this note:

“M. de Miroménil sends, with a thousand compliments to M. Turgot, the plan of an edict concerning the *corvées*, and his observations. He also returns the papers concerning compulsory feudal service (*banalités*), and confesses himself to be little impressed by the replies to his observations.”²

III. *The Edict.* The political and economic doctrines developed in the preamble to the edict are all elaborated in the discussion with M. de Miroménil, and discussion of them in this work is deferred to a later chapter.

The preamble is only about one-fourth the length of the controversy with the Chancellor, and, being composed for the future as much or more than for the present, it is naturally a candid exposition of all the *corvée* costs the government and all that it implies and involves in its relation to all classes, especially to the “most numerous class of our subjects,” the *taillables* upon whom its most crushing weight fell. It urges reason, justice and public welfare as the bases of its general recognition, and it is significant that in the arguments against it at the *lit-de-justice*, M. Séguier, who voiced the objections of the parlement, admitted every charge which Turgot made against the *corvée*. There was no real objection to its abolition. But the most strenuous objections were made to the tax on proprietors to replace it. Séguier urged the king to adopt

¹ Dairé, *Œuvres de Turgot*, vol. ii, pp. 251-287.

² Say, *Turgot*, p. 155.

the methods of ancient governments for the making of roads and to employ the army to that end whenever circumstances made such employment possible. But Louis XVI. was true to his promises to the Minister and willingly set the example to the *privilégiés* in subjecting the domain of the crown to the tax.

One feature of the decree which could not properly appear in the body of the edict was embodied in the preamble, and that was the maximum limit of the tax for all the states-districts. The king could not well embody this in the law, but felt confident that, relying on the judgment of his Minister of Finance, he could promise that the total amount of the tax would never exceed the sum of ten million livres annually.

The edict itself is composed of eleven articles, of which the first forbids in all cases, except where war and defense of the country demand it, any forced or compulsory labor under the name of *corvée* or any other name, for the construction of roads or other public works. In case of war, the right is reserved to pay those who may be drafted for whatever work is demanded of them. Article II provides for the tax for building roads, apportioned according to the twentieths, and levied upon all owners of land, privileged and non-privileged. Article III continues in force the existing provisions for bridges and culverts. Article IV provides for the indemnity of all proprietors who may be damaged by the laying out of roads, destruction of buildings or extraction of materials from their lands.

Articles V, VI and VII make the necessary provisions for the regulation by the Council of the work to be done during each year in each *généralité*, the contracts for the work, the disposition of surplus funds or deficits which may arise through unforeseen contingencies, which sums are to be deducted from or included in the budget of the following year. Article VIII enacts that four copies of the edict as passed by the Council each year shall be deposited, for free access and consultation

by the public, one copy each in the office of the Court of parlement of the *généralité*, in the Chamber of Accounts, in the Court of Aides, and one in the Bureau of Finance. The remaining articles provide for the collection of the tax in the same manner as the twentieths, the methods of accounting for the collection and disbursement of the funds, the latter to be strictly in accordance with the terms of the contracts executed for the making and repair of the roads.

Although the edict was revoked within a few months after Turgot's downfall as Minister of Finance, the final suppression of the *corvée* was inevitable as a result of the measures which had been taken against it, and its end was one of the first works of the National Assembly.

CHAPTER IV

ANALYSIS OF THE EDICT ABOLISHING THE GUILDS

TURGOT regarded the freedom of trade as the very greatest boon which the king could confer upon his people. He had no thought that the full wisdom or total error of the scheme enacted by his edict to this end, would become apparent to the general public for ten years.¹ Next to the advantages of free trade, Turgot assures the king in the Memoir, that freedom of labor and industry comes as the most imperative and beneficent act of his paternal rule, and the edict enacting the complete overthrow of the guild system in France did not come by any means as a bolt from the blue, an unexpected and disconcerting act of sovereignty.

The *économistes* had for twenty years been agitating for the suppression of the corporations, and their activity was met by equal zeal in defence of their régime by the Six Companies,² and other powerful guilds of Paris. In 1775 the *économistes* issued a posthumous document of President Bigot de Sainte-Croix, under the title: *Essai sur la liberté du commerce et de l'industrie*. This was in fact an address to the Court. Saint-Léon affirms that it was issued for the express purpose of preparing the public mind and rallying it to the support of the edict to follow.³ The whole address was against the *régime corporatif*, and, having recited in detail the wrongs and injuries to individuals and to society which the guilds

¹ Saint-Léon, *Histoire des Corporations des Métiers*, p. 427.

² *Ibid.*, book v, chap. iii (book vi, chap. ii).

³ *Ibid.*, p. 477.

inevitably wrought, Saint-Croix indicated as practical means of reform the entire abrogation of all bonds between members of the same calling, permission to acquire many different master-ships, the abolition of apprenticeships and journeymen's service, and complete assimilation of foreign workmen with native Frenchmen, full freedom of trade between the cities of the kingdom and the denial of the right to artisans of the same vocation to unite themselves into a society.¹

The publication of this brochure produced a great excitement in Paris and the cities near to it. The guilds refrained from making any public demonstration against it for a time, but when, in January of the ensuing year, the rumor became general that Turgot had submitted a Memoir to the king, looking to the suppression of the *corvée*, the offices of stalls and markets, *Caisse de Poissy* and the *maîtrises and jurandes*, the Six Companies at once delegated M. Delacroix, an advocate of the parlement of Paris, to look to their defense. He at once published a *Mémoire à consulter sur l'existence actuelle des Six Corps et la conservation de leurs privilèges*.

This Memoir anticipated in almost every point the opposition speech of M. Séguier at the *lit-de-justice* in the following March, even more closely than the *Essai* of de Saint Croix did the edict when it appeared.

The *Six Corps* followed the Memoir of their advocate with an official publication of *Reflections*, in which they made a general onslaught on the whole principle of free trade and industry. The master tailors of Paris also issued, by their advocate, M. Dareau, a vigorous protest against the suppression of the *jurandes*.

On the 22d day of February, Turgot caused a decree of the Council to be issued suppressing all the Memoirs published in the defense of the guilds, evidencing, as Saint-Léon observes, that "the liberty of trade was not confounded in the minds of its partisans with liberty of discussion." This decree was fol-

¹ Saint Léon, *Histoire des Corporations des Métiers*, p. 477.

lowed a few days later by the publication of the edicts enacting the suppression of the Port and Market Offices and the Guilds.

Now there are some characteristics of the guilds of the *ancien régime* which must be clearly discerned before Turgot's attitude toward them becomes understood and explainable. Saint-Léon and Drapé,¹ in following the development of the guild system, emphasize the marked difference between the guilds of the Middle Ages and those of the age of Turgot. Drapé says, that the sharp distinction between the *corporation ouverte* of the Middle Ages and the *corporation fermée à réglementation excessive et à monopole exclusif*, of the *ancien régime* strikingly characterizes two types of professional association.² With scarcely an exception, the guilds of the Monarchy under, and subsequent to, the reign of Louis XIV were jealous to a fault of their privileges, monopolistic to the last degree, and opposed effective barriers to all economic progress and advance. Blind to the economic evolution of the age, they fought bitterly against it, and were finally obliterated, so far as concerned their harsher aspects, only by the economic revolution which they could not stay. It was not the beneficent, protective and mutually helpful medieval guilds which confronted Turgot, but degenerate descendants of these; racial and class prejudice³ lay at the basis of their organization; reform could not, by treating their superficial phases, reach the heart of their abuse of economic privileges originally extended to them, and effective reform was possible only by way of total eradication.

It was the failure to comprehend these conditions which led the partisans of the guilds to violent opposition of the reform measures of Turgot, or, possibly, it was a consciousness of the impregnable positions of the Minister.

¹ Drapé, *Recherches sur l'Histoire des Corporations d'Arts et Métiers en Roussillon sous l'Ancien Régime*, pp. 200-208.

² *Ibid.*, p. 225.

³ Saint-Léon, *Histoire des Corporations de Métiers*, p. 476, note. The Six Corps embody in their defense a bitter attack on the Jews.

The same failure to grasp the significance of the crisis has led some of Turgot's later critics astray. Toubeau, who defends the guilds with rather marked enthusiasm, and largely from the religious point of view, thinks that "Le problème de l'organisation du travail avait donc reçu dans l'ancienne France sa plus parfaite solution par l'association corporative."¹ M. Flach commends the essential trait of family solidarity, mutual assistance and protection, and defensive provisions of the guilds, and counts their destruction a misguided attempt at reform;² and Gauthier dignifies them as the most authentic monuments of history, "qu'on fut coupable de renverser ces vénérables Corporations, et que l'on devait seulement les dégager de leurs abus."³ Drioux studies the guilds chiefly from the legal standpoint, touching in a rather non-committal way on their economic and political aspects,⁴ and Valleroux, while approving Turgot's beneficent intentions, praises Séguier's attack on the edict, and applauds as vastly wiser the subsequent reconstruction of the guilds along the lines laid down by Delacroix and Séguier.⁵ Even Saint-Léon, who is by no means either unfriendly or unkind to Turgot, questions the wisdom of all the provisions of the edict. His language is eminently worth quoting here: "L'édit de 1776, en effet, venait rompre violemment des liens séculaires; il dénonçait un pacte qui avait été dès les premiers temps de nôtre histoire la loi et la constitution organique du travail national. Maître et artisan allaient désormais se trouver en face l'un de l'autre, sans que le sentiment de leurs intérêts communs et la solidarité professionnelle intervinsent comme autrefois pour exercer leur influence bienfaisante et conciliatrice, sans que la médiation d'une autorité si long-

¹ Toubeau, *Les Anciennes Corporations Ouvrières à Bourges*, Intro. xxiv.

² *Ibid.*, p. 26.

³ Gauthier, *Histoire des Corporations Ouvrières*, p. 6.

⁴ Drioux, *Étude sur les Associations*.

⁵ Valleroux, *Les Corporations d'Arts et Métiers*, pp. 112-118.

temps respectée et obéie s'interposât pour apaiser leur éternelle querelle. Affranchir le travail des entraves qui comprimaient son essor, c'était à coup sûr une idée généreuse et libérale. Supprimer, au lieu de les conserver en les transformant, les institutions corporatives, type traditionnel de l'organisation du travail, abandonner l'artisan aux suggestions mauvaises de l'isolement social et de l'individualisme, c'était peut être au contraire faire acte d'imprévoyance et léguer à l'avenir un dangereux héritage."¹

It is unquestionable that in the preamble to the edict, by developing the idea of "rights" which the sovereign owed to his subjects to protect and not to infringe upon, and especially by affirming the "droit de travail" as the most sacred and imprescriptible of all the rights of man, Turgot was arraigning the whole political course of the Empire and building into its laws a new idea, hitherto foreign to the monarchy. "Damit war die ganze bisherige Gewerbepolitik des französischen Königtums als falsch und ungerecht verurteilt,"² expresses the precise status of affairs as indicated in the preamble of the edict suppressing the guilds. But in connection with that fact, must be considered Turgot's attitude, as expressed in the Memoir: "I am sensible of a delicacy in laying blame on old operations of government, but it is truly impossible to develop principles, and to bring abuses to an end for the future, without casting some odium upon it for those abuses. All that can be done is to provide that this blame does not fall on persons who may be presumed to have been actuated always by upright intentions. I have endeavored to preserve that thought. And that delicacy, however based, it seems to me, ought to give place here to the great object of consolidating for perpetuity the good which Your Majesty wishes to accomplish for his subjects, and to lay it upon future administrators to destroy the

¹ Saint-Léon, *Histoire des Corporations de Métiers*, pp. 479, 480.

² Oncken, *Geschichte der Nationalökonomie*, p. 450.

groundless bases which have misled administrators in times past.”¹

The following paragraphs from the preamble to the edict express Turgot's mind on the general and specific principles of the responsibilities of government to labor and to industrial organizations in his day. The opening words of the document are:

“Louis, etc. We owe it to our subjects to assure them the full and complete enjoyment of their rights; we owe that protection especially to that class of men who, possessing nothing but their labor and industry, above all others have the need and right of employing to the limit of their capacity their sole resources of subsistence.”

“We have viewed with pain the multiplied blows which have been struck at that natural right and common feature of ancient institutions, but which neither time, nor opinion, nor even the acts emanating from the authority, which seems to have sanctioned them, have been able to make legitimate.”

“In nearly all the cities of our realm, the exercise of various arts and trades is concentrated in the hands of a small number of *maitres* incorporated in guilds, who may, to the exclusion of all other citizens, make or sell the particular articles of commerce of which they enjoy the exclusive privilege; consequently, those of our subjects who, by inclination or by necessity, desire to exercise the arts and trades, may do so only by acquiring the mastership, to which they are ineligible until they have passed an apprenticeship as long and arduous as it is superfluous, and after they have satisfied claims and multiplied exactions by which a part of the money they so greatly need to establish their trade or to open their shops, or even for their subsistence, they find consumed in utter waste.”

“Those who are so unfortunate as to be unable to meet these expenses are reduced to a precarious existence under the domination of *maîtres*, condemned to waste their lives in indigence,

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 243.

or to carry on outside their country an industry they might have made useful to the State." . . .

"Thus the effect of these institutions, on the part of the State, is an appreciable diminution of trade and industrial labor; with respect to a numerous part of our subjects, a loss of wages and means of subsistence; on the part of the inhabitants of the cities in general, complete subjection to exclusive privileges, the effect of which is exactly analogous to that of an effective monopoly, a monopoly of which those who control it against the public are themselves the victims whenever they in their turn have need of the commodities or trade controlled by other guilds."¹

Having briefly reviewed the origin and development of the guilds, and pointed out that the law has been invoked in behalf of private interests in the constitutions and innumerable restrictions which constitute the present organizations, Turgot adds:

"We will not pursue further the enumeration of the fantastic rules, tyrannical and contrary to humanity and good manners, which fill these obscure codes, conceived by greed, adopted without examination in times of ignorance and which only need to be known to become the object of public indignation."

He then traces the fiscal resource which has been made of the craft-guilds and says: "It is doubtless the allurements of this means of finance which has prolonged the delusion concerning the immense injury which the existence of guilds causes to industry and concerning the blows which it struck to natural right. That delusion has been carried by some persons to the point of contending that the right of labor is a Royal right, one that the prince could sell and which the subjects ought to buy. We hasten to put beside this another maxim:"

"God, by giving to men needs and making them dependent

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 243.

upon the resource of labor, has made the right of labor the property of all men, and that property is primary, the most sacred and the most imprescriptible of all."

"We regard it as one of the first obligations of our justice, and as an act in every way worthy of our beneficence, to emancipate our subjects from all the restraints which have been laid upon that inalienable right of humanity. Wherefore we will to abolish the arbitrary institutions which do not permit the indigent to live by their labor; which exclude the sex whose weakness implies greatest needs and fewest resources, and which seem, by condemning it to inevitable misery, to encourage seduction and debauch; which stifle emulation and industry and make useless the talents of those whom circumstances exclude from admission to the guilds; which deprive the State and art of all the advantages which foreigners might furnish; which retard the progress of the arts by the difficulties which inventors find multiplied by the guilds who thus dispute the right to exploit discoveries which they themselves have not made; which, by means of the inordinate expenses artisans are compelled to incur in order to acquire the liberty of labor, by the exactions of all kinds they must meet, by the multiplied penalties for so-called infractions, by expense and extravagance of every sort, by the endless litigations which arise between the different guilds because of their respective claims concerning the scope of their exclusive privileges, surcharge industry with an enormous tax, grievous to the subjects and with no corresponding advantage to the State; which, in short, by the facility they afford to members of the guilds to combine among themselves and to compel the poorer members of the unions to submit to the rule of the wealthy, become an instrument of monopoly and give rise to schemes whose effect is to increase beyond all natural proportion the price of commodities which are indispensable to the subsistence of the people." ¹

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 303.

Now, this scathing arraignment of the labor organizations must be judged on its merits; and it is significant that, without exception, the historians of the guilds and guild system who base their conclusions on available records, and who have no personal or religious interest to subserve, admit every charge which Turgot makes in the last preceding paragraph. And the question of reforming institutions which had come to be exponents of doctrines which were inimical to the state, hostile to industry, socially and morally intolerable, insurmountable barriers to progress and subversive of every economic principle which looked to national and individual betterment, is at once seen to be something more radical than mere revision of constitutions and codes. And one point almost universally overlooked by Turgot's critics demands consideration because of its bearing on his view of the guilds.

The edict enacting the suppression of the guilds took immediate effect only on the 113 guilds of Paris, the guilds of the provinces being granted a period of delay until their condition could be more thoroughly known and considered.¹

M. Drapé discovered and incorporated in his publication, in 1898, a letter written by Turgot to the Intendant of the province of Roussillon, written during the month following the *lit-de-justice* which registered the edicts, in which Turgot says, "The province of Roussillon, not having always been a part of the kingdom, it may be that the status of the *jurandes* there is different and derived from titles which are peculiar to the constitution of that province," and he requests the intendant to secure for him the necessary information relevant to the execution of the *plan de liberté* adopted by the king. A second letter to the intendant instructs him to procure information concerning the debit and credit accounts of the guilds.² These letters lead M. Drapé to observe: "Turgot s'était cependant

¹ Daire, *Œuvres de Turgot*, vol. ii, pp. 306, 307.

² Drapé, *Recherches sur l'Histoire des Corporations d'Arts et Métiers en Roussillon sous l'Ancien Régime*, p. 208.

rendu compte de la relativité des milieux, il savait que les mœurs, les habitudes, et les institutions ne se développent pas suivant des plans en quelque sorte parallèles, mais qu'au contraire, il y avait des étapes bien différentes, sur la même route du progrès."¹

The importance of this correspondence is obvious as showing that in all his hostility to the *régime corporatif* Turgot was not carried away by the enthusiasm of a doctrinaire reformer nor unable to take note of modifying conditions or extenuating circumstances. He conceived the whole existing basis of the guild system to be essentially bad, but recognized that in distant places and in other circumstances the guilds might not be so disastrous in their effects as were the ones in the capital and in other large cities.

Returning now to the expositions made in the preamble of his ideals of industrial organization, Turgot is found to be discussing the real distinctions between entrepreneurs or masters and laborers; this distinction "is based in the nature of things and does not depend on the arbitrary institutions;" entrepreneurs may be trusted not to embark their capital in a craft of which they are too ignorant to be able to choose good workmen, and this interest will serve all the ends of preventing the public from unsatisfactory service. And the supply of merchants and laborers will adjust itself automatically to the demands of consumption.

He then classes the debts of the guilds in two categories; one the loans which have been contracted to meet the demands of the crown, the other, the obligations incurred in the conduct of the societies. He purposes to protect the creditors of the guilds, and to collect to the profit of the king the sources of revenue formerly alienated to the guilds, and to use the sums so arising as a sinking fund for the ultimate extinction of all the debts of the first class. The chattels and effects of the

¹ Drapé, *Recherches sur l'Histoire des Corporations d'Arts et Métiers en Roussillon sous l'Ancien Régime*, p. 213.

guilds, which their suppression will make subject to sale, will provide for the debts of the second class, any surplus arising from the sale of the effects to be divided equally among the masters of the particular guild which had owned the property, and any deficit to be provided for by the king, from other branches of revenue.

Concerning the taxes collected from the guilds from reign to reign, Turgot held that the object of these payments was satisfied in the confirmation of their privileges which the guilds enjoyed, inasmuch as the privileges had to be renewed in each reign. He adds: "We have not renounced the right, inalienable from our sovereignty, to summon for examination the privileges too readily granted by our predecessors, and to refuse them confirmation if we judge them prejudicial to the welfare of the state and contrary to the rights of our other subjects."

The vocations of barbers, wigmakers, and bathkeepers were exempted from the edict, since these guilds were in the nature of bodies of officials which could not be suppressed until they were reimbursed for their payments in purchase of the offices, and the conditions of the treasury at that time would not allow these sums to be withdrawn. Pharmacy, gold-smithing and printing were also exempt from the suppression decreed, on grounds of public utility and safety. Freedom of the press was not yet established, and Turgot was not prepared to withdraw government censorship from publications; the trade in drugs required, or at least seemed to require, careful government supervision, and the same provisions were deemed necessary to cover the other trade.

In place of grouping craftsmen according to their calling, as had been done from earliest times, the preamble explains the new method of grouping all industries according to localities, enrolling the names, residence and occupations, without cost, of all the inhabitants of a certain defined district, syndics and assistants being appointed for that purpose in each quarter.

All litigation between the guilds concerning conflicting claims was to be at once stricken out of court; law suits involving real estate or other permanent interests were to be carried as quickly as possible to final judgment, and suits where quality or price of labor were at issue were to be settled in the speediest and least costly manner possible.

The text of the edict is in twenty-four clauses, much the longest of the six. The reforms to be effected were so radical and far-reaching that it was imperative to make them clearly defined and specific. Article I decrees: "It shall be free to all persons, of whatever quality and condition they may be, even all foreigners who may not yet have obtained letters or naturalization from us, to embrace and to exercise in all our kingdom, especially in our good city of Paris, such kind of business and such profession of arts and crafts as may seem good to them, even combining many: to this end, we have abolished, we will to abolish and suppress all corporations and guilds of merchants and artisans, as well as *maîtrises* and craft-guilds. We abrogate all privileges, statutes and regulations given to the said corporations and guilds, by reason of which none of our subjects may be annoyed in the prosecution of his business and his trade, for any cause or on any pretext whatsoever."

Article II provides for the recording of names, sur-names, domiciles and occupations, without cost, before the Lieutenant-General of Police; provides for seizure, confiscation of goods and fine for failure to make the required declaration; and exempts the existing masters, except in case of change of domicile or business, and wholesale merchants of all classes. Articles III, IV and V provide for the exemption of day laborers who work for the account of others, the vocations of pharmacy, gold-smithing and printing and book selling, as well as the offices of barbers, wigmakers and bath-keepers. Article VI provides for a fine of 500 livres and other punishment, as may be determined, for butchers, bakers and others whose business

affects the subsistence of the people, if they quit their accustomed trade within one year from the time of making the declaration. Articles VII, VIII and IX provide for the police of businesses required to be conducted according to records on file, of the sale of drugs and of dangerous occupations.

Articles X and XVI are the chief constructive clauses of the edict. The former establishes *arrondissements* in the different quarters of the cities to be under the jurisdiction or supervision of a syndic and two assistants in each one, and these officers to be the local representatives of the Lieutenant-General of Police and answerable to that functionary. The latter revives the Consular-Magistracy, established in 1563 and 1728, in the city of Paris, and provides for their election annually by sixty, thirty-two electing, of the tradesmen of the district. Articles XI and XII delegate authority to the Lieutenant-General of Police over industrial suits at law in all cases where the amounts at issue are less than 100 livres. Article XIII forbids all officers of all guilds from performing any function or duty whatever in their official capacity, except in the matter of collecting and remitting the sums due the crown for the current and preceding years.

Article XIV is the one which has inspired the most hostile criticism of its author; it forbids all masters, journeymen, laborers and apprentices to form any association or assembly of any sort, among themselves, under any pretext whatsoever. Article XV restores the chapels and other property of religious brotherhoods to the bishop of the diocese to be disposed of by him according to his judgment. Articles XVII and XVIII enact concerning present suits at issue, provide for their early adjudication, and forbid all officials of guilds to institute new proceedings. Article XIX calls for reports within the space of three months from all wardens, syndics and magistrates, and provides definite officials through whom the reports shall be made. Articles XX-XXIII provide for the liquidation of the debts of the guilds along the lines indicated

in the preamble. Article XXIV nullifies all legislation contrary to the provisions of the edict.

Concerning the clause forbidding all associations and assemblies of men of the same craft, Stephens observes: "So rare is it for a mind, however enlightened, to accept at once the full consequences of a principle."¹ Léon Say raises the question as a dilemma. In his discussion, however, he makes no attempt to offer a solution.² And nearly all writers who mention the matter at all attribute that provision to the one obvious weakness of the Minister. On the face of the case, taken in connection with the decree of February 22, 1776, which suppressed all defense of the guilds, it indicates a measure of intolerance bordering on bigotry on the part of a man whose whole life was a plea for toleration. But when these institutions are set in the foreground with all their shameless exploitation of the state and the welfare of the individuals which composed it, the economic revolution in the immediate background, and when we remember that Turgot, realizing the causal relation of the one to the other, was striving with the aid of the youthful king to avert the Revolution by subverting its cause, his course becomes consistent in every part. Grant the members of the guilds the privilege of assembly, and how long would human greed, trained to arrogance by long periods of economic privilege, remain suppressed? How long before most guileless appearance concealing the same baleful force which had already drained the monarchy of its industrial vitality, would have been hard at work completing its destruction in the constitution of the State? Given that time and place, antecedent conditions and the impending future, as Turgot saw it, and there was no other course to pursue. To have failed to suppress the publications which appealed to prejudice and inspired passion against the beneficence which ceased not to issue decrees and measures of

¹ Stephens, *Life and Writings of Turgot*, p. 130.

² Léon Say, *Turgot*, pp. 173, 174.

amelioration from the bed of pain and suffering, was an equally imperative measure. The Age of Paper, which readers of Carlyle cannot forget, had not yet broken forth in its exhaustless fulness, but there was enough of it then, and that particular crisis needed no flood of paper to incite wrath against the measures which involved a revolution.

The restoration of the guilds in August following Turgot's dismissal could not restore the power with so much difficulty wrenched from them. They were, indeed, reconstructed, and exercised their functions until 1789. Then came the revolution which was not peaceful. The lettres-patent of 1779 modified yet more the milder régime established by Maurepas in 1776; in the *Répertoire de Jurisprudence de Dalloz*¹ these words speak volumes for the subsequent history of industrial legislation in France: "It is not to the National Assembly, which accomplished some great things, to which the honor belongs of having first proclaimed the right of labor. But it was the attempt of Louis XVI. and Turgot which it had the glory to accomplish. Dallarde, in the report which he presented to the Constituent Assembly, confined himself to analyzing, and at times even copying the preamble of Turgot."

Menger has admirably traced and analyzed the socialism which, arising from the mild claims of the inalienable right of labor, took its stand on the right to labor, and developed the modern socialistic doctrines to the right to the full product of labor. But Menger, in the only reference he makes to Turgot in his excellent work, has failed to represent him correctly; for Turgot's defense of the *droit de travail* in no way suggested, even faintly, the obligation resting on the State to provide employment for all who sought work. The *droit à travail* did not enter into Turgot's perspective; he only affirmed that no political structure could reasonably and justly prevent man

¹ Stourm, *Les Finances de l'Ancien Régime et de la Révolution*, vol. i, p. 281, note.

from working by hedging him about with arbitrary restrictions.¹

Oncken, on the other hand, has in this instance rightly apprehended the real significance of Turgot's contention in the preamble to the edict. He says: "Unter dem 'droit de travailler' darf man hier nicht etwa das Spätere 'droit du travail,' wie es aus Irrtum nachher wohl geschehen ist, verstehen. Es bedeutet nichts Anderes als Gewerbefreiheit, d. h. die Freiheit, ein Gewerbe anzufangen, ohne durch Privilegien Anderer gehindert zu werden; es ist im Grunde ein Bourgeoisrecht. Das 'Recht auf Arbeit' dagegen schließt den Anspruch in sich, nicht bloss Arbeit zu suchen, sondern auch solche zu finden. Es ist ein Proletarierrecht. Das dem Préambule angeheftete Edikt handelt auch thatsächlich nur von der Aufhebung der Zunftprivilegien und Unterstellung der Unternehmung unter die Sicherheitspolizei."²

The edict suppressing the guilds was registered at the bed of justice on the 12th of March, 1776. The parlements of Bordeaux, Toulouse, Aix, Besançon, Rennes, Dijon and Nancy refused to register it, and in these provinces the guilds continued as before, conforming to the rules of the reconstruction of the system, as laid down by Maurepas, in August of the same year. And this reconstruction, given in detail by Saint-Léon, conformed to the earnest appeals of Séguier, the advocate who spoke the protest of the parlement of Paris at the *lit-de-justice*.

This speech of Séguier's has been rather unfairly treated by most historians. It did contain some passages of florid rhetoric, but it was, on the whole, a shrewd and astute plea for the corporations. Séguier frankly acknowledged that there were many abuses in the system; that many of the corporations might be abolished with profit; that others might and should

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 306.

² Oncken, *Geschichte der Nationalökonomie*, p. 450.

be combined; that women should be admitted to guilds having in charge such employments as were suitable for them. But he contended, and with much force, that the masterships were items of property which had been purchased; that to abolish the guilds, rather than to reform them, meant nothing less than to confiscate the property of innocent purchasers. He affirmed, and adduced evidence in support of his statement, that the very restrictions of which the preamble made so much, were the source of the glory and greatness of the commerce of France. For its purpose, the speech is an excellent example of forensic eloquence.

But the king had yielded his support to the minister who saw not tradition but the future; who felt that justice to the many demanded injustice to the few who exploited the many. The edict became one of the most honored, though for the time dishonored, of the laws of France.

CHAPTER V

POLITICAL AND ECONOMIC DOCTRINES OF THE SIX EDICTS

It is largely through the emancipation of the science of economics from the trammels which caused it to become known as the "dismal science" that thoughtful students of history have been devoting more attention to the fundamental nature of economic relations in the determination of events which do not appear, at first glance, to be closely involved in economic principles and laws. It is only within recent years that definite attempts have been made to construe the French Revolution as an economic outburst with social and political consequences so conspicuous and noisy as to conceal, in great part, the real nature of that revolt.

In such a study of that epoch the doctrines of the great Minister who died eight years before the breaking forth of the riot he had sought with well-directed zeal to prevent, become of immediate and vital interest. His view of his present and the immediate future are unquestionable. The regeneration he tried to bring about in the heart of his nation was essentially economic. His reforms were economic reforms. To the mild protest of the Keeper of the Seals that the provision for damages to owners of property which was damaged or destroyed in making roads would further burden the finances of the king, Turgot pointedly replies: "*M. le Garde des Sceaux* knows that it is not that which will ruin the state." Ruin, economic ruin of the whole fabric of the state stared him vividly in the face. But it could not be that a nation which could look upon the light and call it darkness could be peacefully reformed.

In all the long reaches of human history, political philosophy has traced for us the ceaseless struggle between the three great forms of political association, Monarchy, Aristocracy and Democracy. Swinging, not pendulum-like, but around the circle where despotism merges into the rule of the few who are best fitted and on into assertions of equality where all rule alike, out of this chaos into despotism again, or sometimes reversing this process, the forms of political control have ever been moving. Within the monarchy which had grown out of the feudal aristocracy and towered above it for a time, France had been developing inevitably the spirit of democracy. And the half-conscious sense of the unreason and inhumanity of economic inequalities established by the ruling classes did as much or even more than any other single influence to develop the frenzy of uncontrollable democracy which rallied to the cry: "Liberty, Equality, Fraternity."

I. *Political Principles.* Turgot held unswervingly to the monarchical idea. To be sure, he recognized the right of the best and fittest to govern and the equality of all before the law, but he had little indulgence for an aristocracy which depended on special economic privileges for its existence, and he recognized in like manner the incapacity of the mass of the people to govern themselves at that time. There was no national sentiment, and the people must be educated in that idea or pass through some fire which should burn away their misconceptions and weld them into a political body. He tried to educate France.

In the language of the Memoir, already quoted,¹ and in the debate with Miroménil,² he states, in the most unambiguous way, his conception of the state as a creature of tacit contract whereby the monarch was raised above all for the protection and welfare of all, and that the monarch "could reign in the future only by the justice which should characterize his laws and by the reason in which they were based." His best hope

¹ *Supra*, chap. iii.

² *Supra*, chap. iii.

for France was a constitutional monarchy wherein the sovereign must answer to his subjects as a whole for his acts of sovereignty.

With all its defects, Dr. Oncken's treatment of this development of the monarchical idea which culminated in the momentary triumph of the physiocratic doctrine of a "legal despotism" as opposed to the traditional "arbitrary despotism," is a commendable discussion.¹ As might be inferred from the quotations before us, Dr. Oncken has no sympathy either with Turgot's ideals or with his methods; he makes the promulgation of the edicts an inexcusable yielding to the "school master spirit" and a dangerous and indefensible proceeding in that they submitted the legal will of the sovereign to the incompetent judgment of the subjects. His summary of Turgot's conception of the state, however, appears to be wholly just.

Moreover, in Turgot's doctrines of the nature, functions and limits of government, it is altogether probable that with a wider knowledge of his works so able a critic in the field of statesmanship as Mr. Morley would not hesitate to revise his statement that "everything for the people, nothing by the people, was the maxim of the economists, and Turgot held it in all its rigor." Nothing in all his writings in these last great state papers indicates a trace of such a spirit. He did hold, as a corollary of his doctrine of the state, that government had no right to step in and to prevent the people from doing for themselves. In fact, the very methods of Turgot during the period of his national administration, give indubitable evidence that in this regard Turgot went directly contrary to that physiocratic tenet. As the chief factor in internal administration, Turgot gave the clearest possible evidence that his idea of the function of government was to protect the people in doing for themselves, and that the stability and efficacy of government depended on the way in which it gave incentive to private

¹ Oncken, *Geschichte der Nationalökonomie*, pp. 449-453.

initiative by refraining, and compelling others to refrain, from interfering for or against private interests.

The limits of government Turgot established at the point of highest efficiency in safeguarding the interests of all subjects from assaults from without and encroachment from within. Government existed, in his mind, for no other purpose than to administer justice, to protect the life and to assure the security of the property of the body of citizens which constituted the State; and citizens, in the mouth of Turgot, signified a vastly different conception from that of the ancient republics. "The most numerous and needy part of our subjects" is the customary language of his laws, and no one may measure the influence of this deferential manner of speech in awakening the slumbering sense of individual worth in the hearts of the multitudes who were born only to be exploited by the privileged classes and who knew no other destiny.

His methods of administration were such as were in harmony with these basic ideas of state and government. Sinecures and superfluous emoluments had no place in Turgot's scheme of government. Minimum cost for maximum efficiency was his inflexible rule.

The organization of government as planned by Turgot has been variously estimated. We shall not here adduce the unrevised scheme for general reorganization which he did not have opportunity to present to the king, but we shall confine attention to the scheme of representative government instituted by Turgot to take the place of the guild system.¹

Toubeau² and Valleroux³ both misrepresent Turgot in this matter. They both charge that this scheme of administration was moulded on the form of the administration of the detested *taille*. Chevalier, on the contrary, discerns the real nature of

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 313.

² Toubeau, *Les Anciennes Corporations Ouvrières à Bourges*, chap. i.

³ Valleroux, *Les Corporations d'Arts et Métiers*, p. 116.

this project and shows that Turgot had in mind to develop the capacity for self-government within the body of the state.¹

This position is the farthest possible removed from the "*despotisme éclairé*" pronounced in the very first of the Maxims of Quesnay. The ideal of the Quesnay school of physiocrats was a beneficent but unqualified despotism. And all of Turgot's positions are directly at variance with that idea.

II. *Economic Principles.* The fiscal policies of Turgot have been so ably discussed and articulated in their relation to the *ancien régime* by Stourm, Gomel,² Bouchard,³ and Foncin,⁴ that they need mere statement rather than critical analysis here. And while Cohn had no thought of Turgot when writing of tax problems, his generalizations⁵ on this topic are an admirable exposition of the principles advocated by Turgot.

Aside from the sources of revenue from the domain of the Crown, which were for the personal use of the monarch rather than for the representative of the people's sovereignty, the resource of taxation was the chief reliance of the king.

Turgot's theory of taxation was born largely from his experience as an administrator, and his inveterate opposition to indirect taxes must be construed in the light of that experience. In enumerating the vices of that method of the administration of taxes he lays especial emphasis on the fact that they were for the most part a means of exacting revenue from the privileged classes without touching their economic advantages. He refers particularly to the exasperating tax on salt and the equally vexatious monopoly of tobacco, and shows

¹ Chevalier, "Turgot et la Liberté du Travail," *Journal des Économistes*, vol. xxiii, pp. 193 ff.

² Gomel, *Causes Financières de la Révolution*, pp. 229, 230, 601.

³ Bouchard, *Les Finances de l'Ancienne Monarchie*.

⁴ Foncin, *Essai sur le Ministère de Turgot*, book I, chap. iv; *Histoire Générale*, vol. vi, chaps. xi and xii.

⁵ Cohn, "Income and Property Taxes in Switzerland," *Political Science Quarterly*, vol. iv, pp. 36 ff.

how these taxes bore so hardly on the poor people and that the Clergy and Nobility paid these taxes but would refuse to pay the same amounts by way of direct taxes.¹

He held in common with many of the physiocrats that in the shifting and incidence of taxation the final burden fell upon the proprietors of land. Hume² and others of his friends tried to show Turgot the errors of his position, but with his eyes fixed on the economic privileges which were working the ruin of the state, Turgot could see for his time and nation no wisdom or reason in a tax which crushed the poor and left the wealthy exempt.

At the base of his scheme of taxation Turgot put ability and interest as the prime objects of incentive and mode of administration. Why tax the poor and helpless and exempt those who were able to pay? Why tax those who received the least protection from government, who had least interest in it, and exempt those who had most interest at stake and received protection of the state even beyond the protection the government itself received? Why harass the defenseless and "snatch revenue from their copper pots," and accord all manner of exemption to those who were able to defend themselves from administrative injustice? Such were the questions which Turgot constantly raised in his discussions of tax measures, and his familiarity with them in discussion demonstrates how large a part of his meditation and reflection they formed.

In the perpetual conflict between the interests of the state and private interests, the administration of the tax system is always and everywhere a cause of friction. It was one of the chief causes of embroilment in the age of Louis Quinze. From the character of the man, and his method of thought on these subjects, we should anticipate no other idea of administration from Turgot than that which he held so consistently before him. The friction within the body of the state prevented any general

¹ Daire, *Œuvres de Turgot*, vol. ii, p. 241.

² Léon Say, *Turgot*, p. 56.

sense of love for the government. The person of the sovereign was sacred, and blind loyalty bound the people to him. It was not for some years yet that the wrath of the people identified the person of the sovereign with the chief administrator of government and who, most of all, was responsible for their miseries. The world knows the result. Turgot's whole ambition for the government was so to modify the administration of the internal affairs of the kingdom as to reduce friction to the minimum and to build up the sense of mutual interest between sovereign and people that for the sake of this mutual interest the necessary friction would be more easily tolerated. His success was his failure, and his failure was the final condemnation of the *ancien régime*.

It is interesting to note that Turgot's principles of taxation were counted of sufficient importance to be cited by both sides in the Income Tax cases brought before the Supreme Court in 1900.¹ In his work on "The Shifting and Incidence of Taxation,"² Dr. Seligman gives an admirable summary of the positions of the physiocrats and Turgot on direct and indirect taxes.

As for government expenditures, Turgot held that there was a direct connection between governmental expenses and public prosperity. He did not question that as the economic development of the state required enlarged expenditure by the government, the taxes to meet growing needs would be more and more easily borne by the people. He had public and private expenditure so closely allied that he could consider no increase of the budget allowable, except in case of dire necessity, until the indebtedness of the state was in process of liquidation. Despite Dr. Oncken's repeated charge of the "Wundermann," greater than Sully and Colbert, who could dare to propose the program "no bankruptcy, no increase of taxes, no

¹ *Income Tax Cases for Federal Government*, 893 and 894.

² Seligman, *The Shifting and Incidence of Taxation*, 2d ed., pp. 107 ff.

loans," to a nation already bankrupt,¹ the world will believe that his program did mark a way of escape from the revolution and was in every way a mark of statesmanship such as neither Sully nor Colbert nor any unprejudiced student of public men and public affairs would need feel ashamed to own as their own or as arising from among their people.

The idea of freedom of labor and industry did not originate with Turgot, but his attempt to build these principles into the constitution of a state was the first effort to make these the definitely recognized policies of an established nation. The enunciation by the head of an empire of the inherent and inalienable *droit de travail* marked the beginning of an era in the inculcation of the worth and dignity of labor which is limited only by the leaders of sentiment among the laboring classes. There is a greater willingness among employers than labor leaders care to acknowledge to do for labor more than labor will do for itself. The guilds of Turgot's day were their own enemies, and it was a mercy to abolish them. Labor had no opportunity in the face of organized monopoly, exclusive privilege and arrogant greed. There was no reason in the system; tradition, privileges of long recognition, and assumption of necessary protection to the public were the pleas advanced for their continued existence.

This is no place to make a comparative study of the guild system and of modern labor organizations, but this much ought to be said. The gifted authors of *Industrial Democracy*² and other apologists for labor unionism may establish the theories of minimum wage for average work as the claim of unionism, but the bald fact is conspicuous in these days that the practice of the unions does not always conform to such excellent theories. Opposition to the unions of labor as such is so rare in this country as to be prominent because it is exceptional; but

¹ Oncken, *Geschichte der Nationalökonomie*, pp. 446, 481.

² Webb, S. and B., *Industrial Democracy*.

it must be confessed that the unions are not infrequently yielding themselves more and more largely to the same spirit that animated the guilds of masters in the *ancien régime*, and by so doing are to that extent repeating the industrial conditions which produced the revolution in France. A minimum of work for a maximum wage, intolerance, arrogance and greed are more dangerous on the part of labor than the corresponding vices on the part of capital, for capital is amenable to law. The selfishness of labor conjoined with the selfishness of capital is a public menace. Defiance of law, disregard of public interests, and refusal to meet the *duty* which every *right* implies are only so many invitations to destiny to work the same ends as Turgot wrought in part for the guilds, and as the revolution finally accomplished. All labor and all capital will probably be organized; how long the organizations will endure will depend upon the spirit which animates them: there is always a limit, even to an enlightened public opinion. There are some sinister manifestations of recent development which cause the best friends of labor unions much concern. Public opinion bears more directly and more definitely on organized capital than on unions of labor. As creatures of law corporations are more amenable to the will of the public. The "timidity" of capital makes it more sensitive to pressure from without. The dangers of capitalistic greed are not to be compared in countries of enlightenment to the dangers which lurk in intangible and irresponsible unions of masses to whom the same greed appeals with even greater force and whose action is too frequently swayed with impassioned prejudice.

These observations are only to affirm the constant danger that in contending for the right of organized labor the right of the individual laborer may be lost from sight; that in affirming the right to be given labor and to receive the whole product of labor the right of the individual to work when, where and for whom he pleases may be denied. It is not at all improbable that "the inalienable *droit de travail*, the most sacred and most

imprescriptible of all," may need new, sharp and unmistakable definition by the authority of public opinion.

Side by side with the first official pronouncement of this right lay the utterance of freedom as essential to traffic in the necessities of life. The elaboration of the Corn Laws by Turgot was as complete and adequate as anything produced in the tremendous agitation which swept over England half a century later. There was the same negative appeal against arbitrary interference, and the positive affirmation that consumption would regulate supply. There was the same appeal to economic law as adequate for the provisionment of the people and alone sufficient to establish the equilibrium between wants and satisfactions that constitutes the weal-relation of man to man and of man to nature. These arguments of Turgot are as timely and pertinent to-day as when they were uttered.

Turgot had to contend against the long-established practice of government to regulate supply by arbitrary enactments. And the same arguments he used to combat this custom would urge government to protect both supply and demand from the arbitrary regulations of organizations of capital. Freedom of traffic always implies protection of traffic freed. Here again the arguments of this statesman-economist become immediately relevant.

Governmental interference in matters of subsistence is so far regarded as impolitic that government protection of the same free play of the laws of supply and demand is disputed. Free competition, it is contended, implies the right of the strong to absorb or to crush the weak. Cut-throat competition culminated in the United States in 1888 and has been followed by a period of concentration so revolutionary in character that only now has the problem become of national importance and interest—the problem of government control of trusts or a trust-controlled government. Moreover, the necessities of life have so widened in scope and character that the problem involves much besides corn laws. Congested

populations finding relief along lines of travel have brought the transportation of laborers into the category of necessities of life, and the defence of public interests against private or corporate interests in common carriers is as imperative as non-interference with normal laws of trade and traffic in articles of subsistence.

The limits of freedom are the destruction of the freedom of others; the limits of competition are the destruction of competition, and it seems not improbable that for the protection of freedom, and the assurance of a healthy competition, the fulfilment of the arguments for free trade enunciated more than a century and a quarter ago, the government may ultimately be forced to take over the control, if not the ownership, of transportation lines, and to establish definite control of corporations whose objects of trade are vital to the well-being of the people.

The argument of Turgot for publicity as a check on administrators has been repeated recently by the president of our nation as a necessary check on the operations of corporations. Whether publicity would have served the purpose Turgot had in mind we have no means of knowing. But it is significant that arguments of a past age which dealt with problems peculiar to government are now urged by economists and administrators as applicable to organizations within the government. While publicity may not accomplish all that is needed, the work of the new Department of Commerce with its Bureau of Corporations will be watched with expectant interest.

The only economic doctrine of Turgot which remains to be noticed here, is his argument against economic privileges on the ground that they were inimical to the interests of the state and a source of obvious weakness to it.

His arguments seem so sound and his conclusions so reasonable that one can only wonder that they are not universally accepted. It is plainly to the advantage of a state to grant economic privileges, either in the way of tax exemptions or tariff privileges, to industries of increasing returns, since the

economic waste incident to the establishment of such industries will be more than offset by the economic profit of the industrial process when it has passed out of the period of helplessness. But although the privileges against which Turgot contended were personal and not industrial, though they were incapable of becoming anything other than a constantly growing burden to the state, when once they had become entrenched in the political constitution of the state, they held to their advantages with the same indifference to consequences which lay outside themselves that characterize *privilégiés* in all nations and in all times.

Had the privileges of the clergy and the nobility been social only, or political, Turgot would have left them unmolested. But, as he set forth in the discussion with M. Miroménil, they had become so numerous and constituted so great a burden, both by the loss of revenue which the state must secure from some source and by the accumulating expense which the support of the *privilégiés* cost the court, that their continuance had become an impossibility.

Looked at from this standpoint, it is an open question if his failure as a minister was due to his lack of political adroitness, as M. Levasseur and others state.¹ It seems more probable that the failure of his plans was due to the circumstances which lay without him, and to the tenacity and relentless greed in the powers which had been suffered to exploit both government and subjects to their personal ends.

The French Revolution was at bottom an economic revolution, accomplished through fury and passion, carrying much with it which might well have been left. Economic privileges by which the masses were exploited for the profit of the few, arbitrary interference with freedom of trade in the necessities of life and with the freedom of labor—these were the underlying causes of that crisis. Turgot saw it and labored above all his fellows to avert the crash. His arguments are timely until to-day.

¹ Levasseur, *Histoire des Classes Ouvrières*, p. 635.

PART III

SIX PROJECTS OF EDICTS

TOGETHER WITH EXPLANATORY PREAMBLES
ENACTING SUNDRY REFORMS

Published in February, 1776, and registered at a Lit-de-Justice on the 12th
day of March of the same year.

EDICT OF THE KING

WHICH SUPPRESSES THE CORVÉE AND DECREES THE CONSTRUCTION OF HIGHWAYS FOR A MONEY PRICE
(FEBRUARY, 1776)

LOUIS, etc., The utility of roads designed to facilitate the transport of commodities has been recognized during all time. Our predecessors have regarded their construction and repair as one of the most worthy objects of their vigilance.

Never have these important works been prosecuted with greater ardor than under the reign of the late king, our venerated lord and grandfather. Many provinces are reaping the fruits of these activities in the rapid increase in the value of their lands.

The protection we owe to agriculture, the true foundation of plenty and public prosperity, and the favor we will to accord to commerce as a further encouragement to agriculture, cause us to seek to bind more and more by facile communications all parts of our realm, both among themselves and with outside districts.

Desiring to secure these advantages to our people by the means least burdensome to them, we have investigated carefully the means which have been employed heretofore for making and repairing public roads.

We have noted with pain that, with the exception of a small number of provinces, works of this kind have been executed, for the most part, by means of corvées required of our subjects, and even from the poorest part, while they have been paid no wages for the time they were so employed. We have been

unable to escape being struck by the discomforts inherent in the nature of that contribution.

To draft the cultivator forcibly to these labors is always to do him a real wrong, even when he is paid for his day's work. One would seek in vain to select, for demanding forced labor, a time when the peasants were unoccupied; the work of cultivation is so diversified and so incessant that no time is without its employment. Such times, when they do exist, differ in contiguous places, and frequently in the same place, owing to the varying nature of the soil, or different kinds of cultivation. The most attentive administrators cannot know all these variations. Besides, the necessity of assembling under foremen a sufficient number of laborers demands that the summary writs be general in the same district. Error on the part of the administrator may cause to the cultivators a loss of days for which no salary could repay them.

To take the time of the laborer, even for pay, is equivalent to a tax. To take this time without paying for it is a double tax; and that tax is out of all proportion when it falls on a simple day laborer who has nothing for his subsistence but the labor of his hands.

The man who works under compulsion and without recompense works idly and without interest; he does, at the same time, less work, and his work is poorly done. The peasants (*corvoyeurs*), obliged to travel frequently ten miles or more to report to the foreman, and as much more to return to their homes, lose a great part of the time demanded from them, without any labor return for it. The multiplied complaints, the embarrassment of tracing out the work, of distributing it, of executing it with a lot of men gathered hap-hazard, most of them as devoid of intelligence as they are of initiative, consume a further part of the remaining time. In this way the work which is done costs the people and the state, in day's labor of men and vehicles, twice and often three times what it would cost if done for a money consideration.

The little work wrought so dearly is always poorly done. The art of making stone ballasts, although simple, has, nevertheless, principles and rules which determine the manner of laying out the embankments, of choosing and laying out curbs, of placing the stones according to their bulk and durability, and in accordance with the nature of their composition by which they are rendered more or less susceptible of resisting the weight of vehicles and atmospheric influences. On the attentive observation of these rules depend the solidity and durability of the roads; and that sort of attention cannot be looked for, nor can it be demanded, from the men who are drafted to the *corvée*, who have, all of them, a different business, and who work on the roads only a few days in each year. In work paid for in money, all the details which pertain to the perfection of the work are specified to entrepreneurs. The laborers whom they choose, instruct and oversee, make the construction of roads their regular business, and they know it; the work is well done, because if it is done poorly the contractor knows he will be obliged to reconstruct it at his own expense. The work done by the *corvée* remains poorly done, because it would be too harsh to demand from the wretched peasant a double task, to repair the imperfections committed through ignorance. As a result, the roads are less solid and more difficult to repair.

There is a further cause which makes the work of repair done by the *corvée* very much more costly.

In places where these labors are based on a money consideration, the entrepreneur charged with keeping a part of the road in repair, watches closely for the slightest disintegrations; he repairs them at small cost at the moment they are forming and before they are greatly increased; consequently the road is always in good condition and never requires costly repairs. The roads, on the contrary, which are kept in repair by the *corvées*, are never repaired until their grievous condition is forced upon the attention of the persons charged with keeping the roads in repair.

As a result of this, it happens that on these roads, made in the first place, as is usual, of embankments of large stones, and very crude from the beginning, the vehicles always follow the same track and wear ruts which frequently cut entirely through the ballast.

The impossibility of issuing writs of *corvée* at all times brings it about in most of the provinces that the repairs needed for maintenance are made twice a year, before and after the winter season, and that between these times the roads come to be in wretched disorder. It is necessary to secure new stone entirely for the work of repair; hence, aside from the inconvenience of making each time a ballast as unsatisfactory as a new one must ever be, there is involved an annual expense in days' labor of men and of carts, approaching very near the first cost of construction.

Any industry which requires such intelligence is impossible of being carried on by means of the *corvée*. It is on this account that in making roads by that method we are obliged to confine ourselves to embankments constructed of ill-assorted stones, without being able to substitute a ballast of paving stones when the nature of the stones demands it or when their scarcity and the distance from which they must be brought render the construction by paving incomparably cheaper than that of general stone ballasts, which consume a very great quantity of stone. That difference in price, frequently greatly to the disadvantage of stone ballasts, is an increase in the actual expense and in the burden resting upon the people which results from the custom of the *corvée*.

There must be added a multitude of accidents: the loss of animals which, arriving at the place of work already exhausted by long travel, succumb to the labor demanded of them; the loss even of men, heads of unfortunate families, maimed, consumed by the maladies which the intemperance of the season occasions, or by the work itself; a loss most sad when those who perish succumb to a hazardous demand, and who have been compensated by no salary whatever.

There must be added further the expenses, the law costs, the fines and penalties of all kinds which are made necessary by resistance to a law too harsh to be executed without complaint; perhaps the secret vexations which the greatest vigilance of those who are charged with the execution of our orders cannot entirely avoid in an administration so extensive and so complex as that of the corvée, and where distributive justice goes astray in a multitude of details; where authority subdivided, so to speak, to infinity is shared among so great a number of hands, and entrusted in its final analysis to subalterns whom it is almost impossible to choose with careful discretion and very difficult to oversee.

We believe it impossible to appreciate all the corvée costs the people.

By substituting for this system, so burdensome in its effects and so disastrous in the means employed, the custom of constructing highways for a sum of money, we will have the advantage of knowing precisely what will result to our people; the advantage of drying up at once so prolific a source of vexations and rebellion; the advantage of having no longer to punish nor to command to that end, and of economizing the exercise of authority, which it is so disastrous to squander. These different motives are sufficient to move us to prefer to the use of the corvée the more pleasant and less costly means of making roads at a definite money cost. But a still more powerful and decisive motive fixes our determination: it is the injustice which is inseparable from the use of the corvée.

The weight of that charge does not fall, nor can it ever fall, anywhere else than upon the poorest part of our subjects, upon those who have no property other than their hands and their industry, upon the peasants and on the farmers. The landowners, almost all of whom are *privilégiés*, being exempt, contribute but very little.

Nevertheless it is to the landowners that the public roads are useful, by the value which increased channels of communi-

cation give to the products of their lands. It is not the actual farmers nor the day-laborers who work for them that are profited. The successors of the present farmers will pay to the proprietors that increase of value in increase of rents. The class of day-laborers will gain, perhaps, some day an increase of wages proportionate to the increased price of commodities; they will profit by participating in the general increase of public welfare; but the class of landowners alone will receive a prompt and immediate increase of wealth, and that new wealth will not be scattered among the people except in so far as the people will purchase it through increased labor.

It is then the class of proprietors of land which receives the fruit of the construction of roads; it is that class which ought alone to make the necessary advances, since they finally secure the benefits.

How can it be just to compel those to pay it who have nothing? to force them to give their time without wages? to take from them their only resource against misery and starvation in order to set them to work for the profit of those citizens who are richer than they are?

A wholly opposite error has often led the administration to sacrifice the rights of proprietors, in the mis-directed desire to relieve the poorer part of the subjects, in compelling them by prohibitive laws to give up the commodities in their possession for less than their actual value. Thus injustice was worked, on the one hand, against the landowners in order to procure bread at a low price for the wage-workers; and on the other, in favor of the landowners, these unfortunates were robbed of the legitimate fruit of their toil and sweat. It was feared that the cost of subsistence would be too high for them to obtain it by their wages; and the government, demanding from them for nothing a labor, which would have been paid for if those who profited by it had borne the expense, took away from them the medium of competition best calculated to make their wages reach their proper level.

It has injured equally the property and liberty of different classes of our subjects ; it has impoverished now one and now the other in order unjustly to favor each in turn. It is thus that one is misled when he forgets that justice only can maintain the equilibrium between all rights and all interests. This will be throughout the basis of our administration ; and it is in order to render justice to the most numerous part of our subjects, whose especial need for protection will always command our most particular attention, that we have made haste to bring to an end the corvées in all parts of our realm.

We have not, however, wished to yield to the promptings of our heart without first having examined and appreciated the motives of our predecessors, by which they have been led to introduce and to suffer to subsist a custom, the embarrassments of which are so evident.

It may have been thought that, since the method of the corvée made it possible to work at once on all routes in all parts of the kingdom, communication would be more quickly opened, and that the state would enjoy more promptly the wealth due to the activity of trade and to the increase in the value of the articles produced.

Experience has not been slow to dispel that illusion. It was quickly seen that some of the sparsely populated provinces were precisely those where the construction of highways, owing to the nature of the country and of the soil, required immense labors which one could not flatter himself he might accomplish with a small number of hands without keeping them at it for more than a century, perhaps.

It was seen that, even in the more populous provinces, it was impossible, without crushing the people and ruining the fields, to draft peasants a sufficient number of days to complete within a short time any considerable part of the road.

It was proved that the peasants could not give their time advantageously without being directed by intelligent employés, whom it was necessary to pay ; that to furnish the necessary

utensils, to keep them in repair, to meet the cost of shops and store-houses, involved expenses proportionate to the number of men annually employed.

It was discovered that, on a fixed length of roadway built by *corvée*, many indispensable pieces of work had to be done, such as bridges, rock escarpments and walls of earth, which could be accomplished only by skilled workmen and for a price in money; that consequently it was fruitless to hasten the construction of works of *corvée*, if the impossibility of accelerating in like proportion the skilled work left the roads broken and useless to the public.

We are convinced, in short, that the quantity of the work accomplished annually by *corvée* has a necessary relation to the quantity of skilled work which the disposition of the fund for bridges and culverts permits to be done each year, and that it is impossible and useless to pass beyond this proportion; that one flatters himself in vain that all the roads may be made at once, and that the pretended advantage of the *corvée* is reduced to the possibility of beginning a large number of roads at the same time, without actually accomplishing any more work than could be done by the method of constructing them by contract, by which one part is not undertaken until another is finished and thrown open to the enjoyment of the public.

The present condition of the roads in most of our provinces, and what remains to be built after all these years during which the *corvées* have been vigorously enforced, prove how false it is that that system can hasten the construction of highways.

Some, also, are dismayed at the expense involved in the construction of roads by contract. It is not believed that the treasury of the State, drained by many wars and the extravagance of former reigns, and charged with an enormous debt, will be able to provide for that expense. Some fear to impose further taxes on the people, already too heavily burdened; and it is deemed preferable to demand from them gratuitous labor, imagining that it is better to demand from the country people,

during certain days, the hands they have rather than the money they have not.

Those who reason thus forget that they must not demand from those who have nothing but their hands either what they have not or the hands which are their sole means of support for themselves and their families.

They forget that the charge for building roads, doubled and tripled by the sluggishness, the loss of time and the imperfection inherent in *corvée* labor, is incomparably more heavy upon the unfortunates who have nothing but their hands, than would be a charge, incomparably less, imposed in money upon the proprietors who are able to pay; who, by the increase of their revenue, would immediately reap the fruits of that outlay, and whose contribution, becoming to them a source of wealth, would at the same time relieve those men who, having nothing but their hands, can live only as those hands are employed and paid. They forget that the *corvée* is itself a tax, a tax most heavy, most unequally apportioned, far more disastrous than that which they dread to have established.

The facility with which roads have been made by contract in some of the states-districts, and the relief experienced by the people in certain *généralités* of assembly districts, where the administrators substituted for the *corvée* a contribution in money, have demonstrated clearly enough how preferable that contribution is to the inconvenience which accompanies the use of the *corvée*.

Another very obvious reason has doubtless greatly influenced the decision which has been made to adopt the method of the *corvée* for the construction of highways, and that is the fear that the recurring needs of the Royal treasury would impel the administrators to divert from their destination the amounts imposed for the making of roads to some more urgent item of expense, especially in time of war; that the sums, once diverted, would remain so, and that the people might one day be forced, at the same time, both to pay the tax designed

originally for the roads and to provide in some other manner, perhaps even by the *corvée*, for their construction.

The administrators themselves have feared this ; they have wished to be so placed that it would be impossible to commit an infidelity of whose danger all too many examples have made them sensible.

We commend the motives of their fear, and we appreciate the force of that consideration ; but it in no way changes the nature of things ; it does not make it just to demand a tax from the poor to enrich the wealthy, and to compel those to sustain the construction of highways who have no interest in them.

All concede that in the time of war the first of all needs is the defence of the state ; it is necessary then, it is just, to suspend all expenses which are not of absolute necessity ; the outlay for the roads should be reduced to repair merely. The tax designed to provide for that expense should be reduced in proportion to relieve the people charged with extraordinary taxes occasioned by the war.

In time of peace, the interest the sovereign has in causing commerce and tillage to flourish, and the necessity of roads to secure that end, ought to allay the fear that the works will be abandoned or that new sums proportionate to the needs will not be provided by the re-establishment of the tax suspended on the occasion of the war. Nor need there be any fear that so simple a method would be abandoned in favor of a re-establishment of the *corvées*, if the latter had once been abolished because they were recognized to be unjust.

On our part, the exposition we have made of the motives which have led us to suppress the *corvée* guarantees to our subjects that they will not be re-established during our reign ; and perhaps the memory which our people will cherish of this testimony of our love will give to our example, in the eyes of our successors, an importance which will prevent them from reimposing on their subjects a burden which we have abolished.

Further, we will take all measures in our power that the sums arising from the tax levied for the construction of highways cannot be diverted to other uses.

In this mind, we have wished that that tax should never be regarded as an ordinary tax and of fixed amount, and that it can never be turned into our royal treasury. We will that it be regulated each year in our Council, for each *généralité*, and that it shall never exceed the sum which it will be necessary to employ in that year for the construction and repair of causeways or other works which have hitherto been made by corvée, while we reserve the right to construct bridges and other works of skill by the same funds which have been so used until the present, and which are imposed in our kingdom for that end. Our intention is that the whole sum arising from the contribution in each *généralité* may be used there, and that no sum may be imposed the following year except in consequence of a new edict decreed in our Council.

In order that our subjects may be informed of the objects for which the said contribution will be employed, we have deemed it proper to ordain that a writ shall be prepared in our Council, in the ordinary form, showing all the contracts for works which it will be necessary to undertake in the year; that that writ shall be deposited, both in the office of our Bureaux of Finance which are charged with the execution of the edicts of the king, and in those of our Courts of parlement, Chambers of Accounts and Courts of Aides, and that each of our subjects may have free access.

We have willed that in case the sums be not used in the year, the sums remaining for use be deducted from the levy of the following year, without being confused, under any pretext whatever, with the mass of our finances and turned into the royal treasury. We have believed it necessary also to order, by the present edict, the accounting of the sums arising from that contribution, both by our Chambers of Accounts and by our Bureaux of Finance, and of engaging the fidel-

ity those tribunals owe us to permit at no time any use of those sums foreign to the object for which we have destined them.

By the reckoning we have made of the roads to be built and repaired in our different provinces, we believe we are able to assure our subjects that the expense of that object will in no year exceed the sum of *ten millions* for all the assembly-districts.

That tax, having for its object an expense useful to all proprietors, we will that all proprietors, privileged and non-privileged, concur in it as is customary in all local charges; and for that reason, we intend that even the lands of our domain may not be exempt, either in our hands or in the hands of others, by whatsoever title they may be held.

The same spirit of justice which moves us to suppress the *corvée* and to charge the expense of making roads to the proprietors who have an interest in it, determines us to provide for the legitimate indemnity of proprietors of heritages, who are deprived of some part of their property, whether by the laying out of roads or by the extraction of material which must be used. If the necessity of public service obliges them to surrender some part of their goods, it is just that they should suffer no damage, and that they should receive the price of that part of their property which they are obliged to surrender.

For these reasons, etc., by advice of our Council, etc., we have, by the present edict, perpetual and irrevocable, decreed, enacted and ordained, etc., as follows:

Article I. There will no longer be demanded from our subjects any labor, either gratuitous or forced, under the name of *corvée*, or under any other name whatever, for the construction of roads or for any other public work, except in case that the defense of the country in time of war demands extraordinary labors; in such case it will be provided by virtue of our orders addressed to governors, commandants, or other administrators of our provinces. We forbid, in every other circumstance, all those who are charged with the execution of our orders, to

command or require it, reserving to ourselves the right to pay those who are compelled by circumstances, in such cases, to be taken away from their ordinary work.

Article II. Works hitherto accomplished by *corvées*, such as the building and repair of roads, and other works necessary to communication between the provinces and cities, will be carried out in the future by means of a contribution from all proprietors of landed property or real estate subject to twentieths, and the apportionment will be made in proportion to their payments according to the regular tax lists.

Article III. With regard to the construction of bridges and other works of skill, provision will be made from the same funds which have been used for this purpose heretofore.

Article IV. We will that the proprietors of land and of structures which it will be necessary to cross or demolish in the building of roads, as well as those who may be injured by the extraction of material from their property, may receive the value of the said lands, heritages or injuries; and they will be paid by the funds arising from the tax decreed by article II herein.

Article V. The amount of tax in each *généralité* shall be regulated each year by the cost of construction, repair and damages which we will ordain in the said *généralité* in that year; to this end there shall be each year a separate writ decreed by our Council which shall include all the said expenses.

Article VI. Estimates and specifications shall be prepared, contracts for the said work and bills for their repair shall be drawn up in the form which will be prescribed; and the writ ordained by us in our Council, mentioned in the preceding article, shall include the amount of the said contracts and bills; reserving to ourselves and to our Council, as in the past, the control of routes, estimates, contracts, and all the clauses, appurtenances and provisions which they may include.

Article VII. A report shall be made to us in our Council

each year, of the employment of the sums arising from the tax ordained ; and in case the sum shall not be entirely consumed, mention shall be made of this fact in the writ of the following year, and the sum which has not been employed shall be deducted from the tax of the said following year. On the contrary, in case some unforeseen cause requires an expense which had not been included in any of the contracts, an account shall be made of it, and if that expense is approved by us, it will be included in the writ ordained for the following year.

Article VIII. As soon as the said edict shall be promulgated by us, four copies of it for each *généralité* will be deposited, one in the office of our Court of parlement, the second in that of our Chamber of Accounts, the third in our Court of Aids, and the fourth in our Bureau of Finance of the *généralité*, with the intent that all persons of whatever quality or condition they may be, may have access to it without cost or inconvenience ; and the said writs will serve as a basis for the reports made to the Chamber of Accounts by our Treasurers, as will be explained in Articles X and XI.

Article IX. The recovery of the sums arising from the said tax, ordained by article II of the present edict, will be made in the same manner as that of the twentieths.

Article X. The sums collected shall be remitted to the ordinary receivers of taxes, who shall withhold from the receipts, month by month, a deduction of four deniers per livre of these taxes, which shall be turned into the hands of the commission of treasurers established by us for the control of bridges and culverts in each *Généralité*, and that commission shall deliver the said amounts to the contractors of these works, in the form which will be prescribed by us. The said sums may not under any pretext whatever be diverted to any other use or even turned into our royal treasury.

Article XI. The said treasurers will not be discharged finally of the said sums except on the delivery of the receipts of the contractors. We make express inhibition and prohibition to

the commission of the said treasurers against paying out the said sums for any other purpose whatever, on penalty of being compelled to recover the entire sum which they would have paid according to the dispositions of the present article. We enjoin upon our Chamber of Accounts and our Bureaux of Finance, each according to its duty, to hold exactly to these instructions.

Thus we give by commandment, etc.

DECLARATION OF THE KING

WHICH REPEALS CERTAIN RULES CONCERNING WHICH THE LETTERS-PATENT OF NOVEMBER 2, 1774, HAD TREATED; SUPPRESSING ALL TAXES ESTABLISHED IN PARIS ON WHEAT, MÉTEILS,¹ RYE, FLOUR, PEAS, BEANS, LENTILS AND RICE, AND MODERATING THOSE ON OTHER GRAINS AND GRAIN PRODUCTS.

LOUIS, etc.; One of the first duties we felt we owed to the felicity of our peoples was to assure their daily subsistence by recalling, by the decree of our Council of September 13, 1774, and the letters-patent expediting the same of November 2 following, to its true principles legislation concerning the trade in grain. We desire that these principles be exposed clearly and in detail, in order to make known to our people that the surest means of procuring abundance is to maintain free circulation, so that the commodities may pass from places of abundance and supply to those of want and demand; to protect and to encourage the trade so that the doors will more surely be open to the places where there is the greatest consumption and a more certain market.

We have had the satisfaction of seeing the measures we have taken justified by experience, even in the midst of popular prejudice, of the inquietudes and annoyances arising from these prejudices, and of devastations committed by an ignorant or deluded populace. After an unusually poor harvest, the inadequacy of which was attested by the amount of new grain which provisioned the markets, even before the following harvest was garnered, and despite the disarrangement and cessation of trade which the renewal of old rules that are contrary to

¹ Mixed grain.

liberty wrought in the speculations of dealers, and the interruption of the trade in grain which resulted from these regulations during many years, the commodity, nevertheless, was not lacking; the afflicted provinces were relieved by the resources of those which were better supplied; a considerable quantity of grain was imported into the realm; and the price, though higher than we could have desired, was not so excessive, however, as we have often seen it under the prohibitive régime, even in years when the harvest was generally much better than that of the year 1774.

At least, a better harvest restored abundance. We may not hasten too quickly to turn to advantage these days of tranquillity and complete the removal of all obstacles which may yet retard the activity and progress of commerce, in order that, if crop failure afflicts our provinces anew, our people may find resources prepared in advance against famine, and that they may not be exposed longer to the excessive variations in the value of grains which destroy all semblance of proportion between the level of wages and the cost of subsistence.

Great cities, and especially capitals, naturally attract abundance by the wealth and number of consumers. Our good city of Paris seems in particular to be destined to become the *entrepôt* of a most extensive trade.

The rivers Seine, Yonne, Marne, Oise and Loire, by the canals of Briare and Orleans, establish ready communication between this city and the most fertile provinces of our kingdom; they offer a natural passage by means of which the wealth of all the provinces should circulate freely and be distributed among them; the vast extent of the consumption of Paris includes necessarily a great part of commodities of all kinds, if nothing arrests them in their course; it would even have at its disposal all the commodities which a free commerce would be impelled to secure for it and turn into it from all contiguous provinces.

Nevertheless, we admit with regret that the provisionment

with grain of our said city, far from being abundant and ready as it would be in a state of free circulation, has been for many centuries an object of sore care for the government and of solicitude for the police, and that these attentions have tended only to repress the commerce entirely.

In giving our letters-patent of November 2, 1774, we proposed to ourselves to seek out, by the most rigid examination of the separate police regulations of our said city of Paris, the causes which set themselves in opposition to the facility of its provisionment, as we announced by article 5 of the said letters-patent our intention to ordain concerning those rules by a new law.

We have had before us accordingly the ordinances, decrees and regulations of police pertaining to the trade in grain and the provisionment of Paris.

We discover that in calamitous times of trouble and civil war, in the centuries when commerce had no existence, and its principles could not be known, the kings, our predecessors, Charles VI., Charles IX., and Henry III, promulgated some ordinances covering that matter; that, without the concurrence of royal authority, many police rules have been added to form a body of legislation equivalent to a prohibition of bringing grain into Paris; that custom and precedent have maintained it, and sometimes confirmed it; that, even when government began to bring to bear on that object a more enlightened attention, vigorous claims were made for the conservation of that police; that it has been preserved as if it had been the safeguard of the facility of subsistence.

That officials, created at different times in connection with the market and port, were charged with the oversight of its execution, and were nevertheless authorized to collect taxes which further injured the sale of grain.

That, finally, for some few years, a tax has been laid on that trade for the construction of a market and warehouse.

Thus, in combining the different effects of the police

designed to assure the necessities of life in Paris, it results that not only do the taxes of various nature increase the price of grain and flour, but that these regulations prevent their abundance, and that all parts of this legislation are so mutually contradictory and so opposed to their object, that the one indispensable thing required to reform them is to expose, by the simplest statement, these regulations and their effects.

An ordinance of February, 1415, renewed by a decree of August 19, 1661, forbids any one to store or to remove the sacks of grain or flour arriving by land, to unload, to store in granaries or *magasins*, or even under awnings, the same commodities arriving by water; as a result, according to these regulations, they have to remain exposed to the atmosphere, to the rain and the damp, which destroys them. The same decree of 1661 forbids accumulating any store of grain, and allowing it to be stopped in the places where purchased, or at the ports of lading, or on the roads by which it should arrive.

These combined restrictions prevent Paris from having any means of keeping a supply of grain and flour within its borders or of having any supply in its environs.

The same ordinance of 1415 imposes on the merchants who bring grain to Paris the obligation to sell before the third market day, on penalty of being compelled to sell at the lower price of the preceding markets; and the decree of August 19, 1661, and the Ordinance of Police of March 31, 1635, after having taken away from all merchants the privilege of making any purchase in Paris, forbid in like manner all bakers from purchasing more than two hogsheads of wheat at a single bargain.

Thus the same police, by its contradictory dispositions, forces the sale and forbids the purchase.

By conforming strictly to that police, the capital could never have provision for more than eleven days' consumption; for the interval between three markets is only eleven days, and, on one hand, the merchants, assured of not having free disposi-

tion of their commodity after that interval, and of being forced, perhaps, to sell at a loss, would bring into Paris only the grain necessary for eleven days' subsistence; while on the other hand, the city could have no provisions in its private *depôts*, since they are prohibited there; nor even in the bake-shops, since they are forbidden to buy more than two hogsheads of grain.

If that police be observed, every time that high or low water, or ice and snow interrupted navigation or land travel for more than eleven days, the inhabitants of Paris would wholly lack subsistence in the most fruitful years, and in the midst of the abundance which the rest of the kingdom enjoys.

A decree of Parlement on August 23, 1565, forbade grain merchants, on penalty of corporal punishment, to export from the city, either by land or by water, going either up or down the river, the grain they had brought into it; two ordinances of police, of 1622 and 1632, added to the rigor of that decree by forbidding the purchase and the removal of any grain for a greater distance than ten leagues from Paris, on penalty of confiscation and arbitrary fine.

These dispositions tend to banish trade in grain from the city of Paris, where the *négociant* is deprived of liberty and almost of the property right in his commodity, and especially of the allurements, so essential to trade, of being able to take it where there is hope of receiving profit; that police informs him that he can neither enter the city nor pass within the *arrondissement* of ten leagues, and that space becomes an insurmountable point of separation between all the provinces which might have profited by the advantages of navigation, for their mutual succor; in this way Bourgogne and Champagne, having an over-supply of grain, cannot relieve Normandy afflicted by famine, for the sole reason that the Seine traverses Paris and its *arrondissement*: in the same way scarcely any relief could be brought from Normandy to Paris and beyond, by ascending the Seine, until, by our edict of June, 1775, sup-

pressing the offices of privileged merchants and carriers of grain, and abolishing the right of *banalité* of the city of Rouen, we removed the obstacles which intercepted the grain trade in that city.

The police ordinance of 1635, cited above, and confirmed by an edict of 1772, forbade merchants who had begun the sale of a cargo of wheat to increase the price; and by an obvious injustice, the merchant subject to hazards which might have diminished the price at the commencement of his sale could not profit by those which, before the end of that sale, might have made the price more advantageous.

The same rules enjoin further, that all traders who bring grain to Paris shall conduct the sale there in person or by some member of the family, and not by brokers (*facteurs*); it ignored the fact that the laborer can not then abandon the tasks of cultivation, or the trader the care of his business, to follow a part of his merchandise; that neither of them can leave without expense; and that these expenses, having to be defrayed out of their trade, would uselessly augment the price of grains.

The prohibition laid on wagoners (*voituriers*), by the edict of 1661, from selling grain along the road, and even from untying the sacks, on penalty of confiscation, is without object in regard to the trade, which should not be throttled by being bound up with such details; it is inhuman toward those of our subjects who may happen to have immediate and pressing needs; it is still more inconvenient and repulsive to the dealer whom it exposes to anxiety and to unjust punishment, perhaps, if some accident obliges him to touch the sacks of grain which he is conveying.

Finally, the obligation imposed by the same decree of 1661 on those who carry on the grain trade for Paris, to submit their invoices to notaries, to present them to the officials of grain, and to register them in a public record, is a formality contrary to all the customs and interests of commerce, which

demands above all else good faith, secrecy and celerity of transaction ; and that law has no other object than to occasion expenses which increase the cost of sales.

It is by such rules that it was deemed most fit in other times, and almost to our day, to provide the subsistence of our good city of Paris. The *négociants*, whose function is that of necessary agents of circulation and who carry abundance un-faillingly wherever they find liberty, security and markets, have been treated as enemies who must be harassed on the way and loaded with chains when they arrive ; the grain they bring to the city cannot be taken out : but they can neither keep it nor protect it from the ravages of climate and corruption ; they are forced to hasty sales ; they are estopped from making purchases ; the merchant must sell his grain by the third market day or lose control of it ; the purchaser can provide for his wants only slowly and in small quantities. Diminution in prices brings a loss to the trader ; their increase can profit him nothing ; the grain merchants, dismayed by the rigors of the police, are moreover exposed to public hatred ; the trade is oppressed, slandered on all sides, and driven from the city ; a district twenty leagues in diameter divides the provinces of greatest abundance from each other and from our city ; and yet all precautions were forbidden in the interior of the city and the outskirts ; they seem even to have conspired against future harvests, by requiring that the laborer quit his work to follow his grain and sell it himself.

That disastrous police produced in former times the effects which might be expected ; periods of excessive and protracted scarcity rapidly succeeded years of abundance ; these were prolonged without actual famine ; they led to violent and dangerous remedies, which only prolonged them because commerce, destroyed by these rules, could offer no help.

Such at least are the effects which our city of Paris experienced in 1660, 1661, 1662, 1663 ; in the years 1692, 1693, 1694 ; in the years 1698 and 1699 ; then in the year 1709, and

later in the years 1740 and 1741, sad times when the price of grain, though moderate in the provinces, was nevertheless excessive in Paris; when the excess of price was determined, not by the effective quantities of goods, but by the greed of a small number of merchants to whom the sale of grain was granted, under a régime which permitted neither trade, nor circulation, nor competition. Only the disregard of these exasperating restrictions, based on the laws of necessity, has been able to make less uncertain the provisionment of our good city of Paris; they were a ceaseless menace of famine and high prices; it was necessary to tolerate resources against frost and floods; to have *magasins* in the district of ten leagues, and even in the interior; to permit the merchants to preserve their grain against climatic conditions, to allow them time to make their sales, and the privilege of employing agents: it is only by the non-execution of the laws that Paris has been able to provide its subsistence.

But the non-execution of such laws is not sufficient to reassure the trade, which their existence continually menaces; it has not recovered its functions; the government, being unable to rely on it, believes it necessary to proceed by itself to secure the provisionment of the capital. It has found that that precaution, reputed necessary, involves the greatest possible inconvenience; that the commerce conducted under its orders admits neither the extent and celerity, nor the economy of the ordinary commerce; that its authorized agents, in all the markets where they appear, bring alarm and sudden rise in prices; that they by reason of their very functions commit many abuses; that operations of that kind completing the discouragement and absolute ruin of ordinary trade, enormously increase the expenses, and by consequence the burdens of our subjects who supply the funds; and finally, that they do not accomplish their object.

It is especially in recent times that the multiplied inconveniences of the laws have been conspicuously apparent. The

declaration of May 25, 1763, seemed to open the way to agricultural prosperity and facility of subsistence, by ordaining that the circulation of grain should be entirely free in all parts of the kingdom ; but a multitude of particular and local obstacles thwarted the general intent of the law and embarrassed all communication ; they were not yet recalled or removed.

The edict of July, 1764, was in force for only a very short time, when its provisions were changed : that legislation, yet incomplete, needed careful attention ; and yet the poor harvests caused every proposed innovation to be regarded with timidity, until the decree of the Council of December 23, 1770, and the letters-patent of September 16, 1771, recalling the prohibitive régime of past centuries, refastened the shackles from which the grain trade was barely disentangled, and surcharged it with numerous and complex formalities which made it impossible.

At that time the inequality of harvests ceased to be the measure of the value of grains ; their true price existed nowhere ; they were given an excessive value in some places, and moderate and even low valuation in places immediately contiguous. Wheat and rye were lacking in our most frequented ports, and they could be brought from other ports where abundance reigned, only when directed by the Admiralty office. The appearance of some local famine, always at hand, burdens the government with solicitude, with excessive expenses and with compulsory operations which give the people much disquiet and too little real relief ; and in the spaces of time when many successive harvests have been sufficiently good, the general price of grain has been higher than in 1775, after the poor harvest of 1774.

The examination of these facts, which are well known to the public, convinces us that only a commerce emancipated from all annoyance and all fear will suffice for all needs, prevent the inequalities in price and the sudden and startling variations which so often come without any actual cause ; that

it alone, in case of misfortune, will be able to remedy the actual famines in a way that all government expenditures can never succeed in doing.

Determined to give, on all occasions, proofs to our people of our love for them, and to make what sacrifices their welfare and the facility of their subsistence may demand of us, we will to choose in preference and to make known to them those things of which the utility is most certain and most direct; we purpose to establish abundance within their walls, by repealing the rules which banish it, by freeing grain from the taxes which increase the price and which vex the trade; finally, by delivering it from the troublesome functions of certain offices created to oversee the execution of these rules, and which it is in our mind to suppress, along with other offices of the same kind, by our edict of this month.

We are determined to exempt from all taxes and to grant the enjoyment of absolute immunity to wheat, *méteils*, rye, flour, peas, beans, lentils and rice, destined for consumption by the people of our said city; but, while exercising our beneficence in the present extinction of taxes, we would not forget that it is in our justice to provide for indemnities due by reason of the suppressions which we purpose to ordain.

One part of the duties which are collected on grain has been conceded to the *prévôt* of merchants and aldermen of our good city of Paris, by the declaration of November 25, 1762, for the establishment of a new market and warehouse. The revenue is assigned to the payment of present charges, the acquittal of which will be provided for by us until January 1, 1783, at which time the payment of the claim for market and warehouse should cease, by the terms of the same declaration.

Another part of the same taxes was devoted to the offices of measurers and carriers of grain, established in connection with the market and ports by the edict of the month of June, 1730, and which are included in the general suppression ordained by our edict of this month.

The order effectually to establish the indemnities assured to these offices by our edict requires that we reserve, to be collected to our profit, a part of the taxes, attributed to the same offices, on oats, grain and grain products other than wheat, *méteils*, rye, flour, peas, beans, lentils and rice, and less useful to the subsistence of our people than the kinds we specifically emancipate.

We will, however, to distinguish and to abolish only that portion of the taxes which represents the wages of porters actually employed in the service of the markets; we will continue to collect that part reserved to the officials, as an interest in their finance.

We have no doubt that commerce delivered from all encumbrances and encouraged by our laws will provide for all the needs of our good city of Paris. Therefore a constant abundance and just prices for the necessities of life ought to be the consequence and effect of the reform of a vexatious police, of the protection we accord to trade, of the freedom of communication, and finally, of the absolute immunity from all taxes which increase the price; and the good we shall accomplish for our subjects will be the most grateful recompense for the pains we take in their behalf. For these causes, etc.

Article I. We will that it may be free to all persons, of whatever quality and condition they may be, to bring in and to hold in storage or *magasin*, both in our good city of Paris and in the circumscribing district of ten leagues and elsewhere, grain and flour, and to sell them in such places as shall seem good to them, even away from boats and markets.

Article II. It shall be likewise free to all persons, even to bakers of our good city of Paris, to buy grain and flour at all hours, in such quantities and in such places, both within the said city and elsewhere, as they judge fit.

Article III. Those who have grain and flour, whether in the markets and ports, or in granaries or *magasins* in the said

city of Paris, shall not be constrained to sell them at the third market day, or at any other fixed time.

Article IV. Those who have grain to sell in our said city may also increase as well as lower the price, in conformity with the course of trade, without being compelled, under the pretext of uncovering a pile or cargo of grain, and commencing the sale from one or both, to continue the sale at the same price.

Article V. It shall be equally free to all those who have grain or flour in the said city of Paris to sell them in person or by brokers or agents.

Article VI. Those who carry on trade in grain in our city of Paris, or for it, may not be in any case constrained to submit any declarations, bills of lading or invoices before notaries, or to record them in any public record.

Article VII. It shall be free to all persons to remove, both from the city of Paris and from its circumscribing district of ten leagues, the grain and flour they may have brought in, or which they may have purchased therein, without needing, for that end, any permission.

Article VIII. We have abolished and suppressed, do abolish and suppress the taxes on wheat, *mêteils*, rye, flour, peas, beans, lentils and rice, which we have included in the suppression ordained, by our edict of the present month, of different offices created in connection with the ports and markets; all of which taxes on the commodities most necessary to life, we do give and restore to the inhabitants of our good city of Paris. We forbid, under severe penalty, all persons, under pretext of the same, to make any such collection, beginning from the day of publication of our present declaration.

Article IX. We have in like manner abolished and suppressed, do abolish and suppress the tax for market and warehouse levied on wheat, *mêteils*, rye, flour, peas, beans, lentils and rice, together with the 8 sous per livre assessed on account of the same tax; and, in consequence of the provisions enacted

by the present article and by the preceding article, the said grain and flour are exempt from all taxes whatsoever in our good city of Paris. We will, furthermore, that the collection of the said tax for market and warehouse, on all other commodities and merchandises which are subject to it, and which are not specifically freed by our present declaration, shall continue to be made for the benefit of the *prévôt* of merchants and aldermen of our good city of Paris, until January 1, 1783, when the said collection should cease, in accordance with the letters-patent of November 25, 1762, by which it was established.

Article X. We have reserved and do reserve (as is herein set forth), to be collected to our profit, the taxes attributed to the offices of measurers and carriers of grain, levied on oats, malt, grains and grain products other than wheat, *méteils*, rye, peas, beans, lentils and rice. We will that the said collection be made at the barriers by the agents and clerks of the Farmer General of our taxes, who shall be held to strict account, in conformity with the provisions of article III of the edict of the present month, enacting the suppression of guilds of officials to whom the taxes have been assigned.

Article XI. We ordain that, under the taxes reserved and designated by the preceding article, a separation be made of that part answering to the wages of labor, which the said officials may have received in connection with the grain in the markets and ports; and that from the day of publication of our present declaration, the said portion shall cease to be collected; and the other part of the same taxes, which we have intended to reserve, shall be collected on the basis of, and in conformity with, the tariff attached under the counter-seal of our present declaration.

Article XII. Provision will be made by us for the indemnity due the said *prévôt* of merchants and aldermen of our good city of Paris, by reason of the extinction ordained, by article IX herein, of the market and warehouse tax on grain and

flour announced in the said article, and from funds which shall be designated by us for that purpose.

Article XIII. Furthermore, our letters-patent, given concerning the commerce in grain on November 2, 1744, shall be executed for our good city of Paris, and for the circumscribing *arrondissement* of ten leagues. We annul all ordinances, edicts, declarations, letters-patent, decrees and regulations contrary to the same.

So given by commandment, etc.

EDICT OF THE KING

ENACTING THE SUPPRESSION OF OFFICES CONNECTED WITH THE
PORT, QUAYS, STALLS AND MARKETS OF PARIS. (GIVEN AT
VERSAILLES IN FEBRUARY, 1776, AND REGISTERED
AT A BED OF JUSTICE ON MARCH 12.)

LOUIS, etc. The resolution we have made to direct our attention to everything which may procure the welfare of our subjects, has caused us to examine the different edicts by which the kings, our predecessors, successively created, suppressed and restored different offices, of which the greater part remain in existence, in connection with the port, quays, stalls and markets of our good city of Paris, and the concessions of various sorts which were alienated to these offices.

We have discovered, by the conditions of the period in which they were created, that they owe their origin to the extraordinary needs of the state in times of calamity, and we are assured that in times more fortunate it has always been proposed to suppress them as burdensome to the people and useless to the police regulations, which had served as the pretext for their creation.

It was in accordance with these motives that the suppression of all offices of that kind which were created since 1688 was decreed by the edicts of May, 1715, and September, 1719, and all these offices remained abolished and suppressed without making any change in public order and police, after the said years 1715 and 1719, until the years 1727 and 1730, when the late king, our honored lord and grandfather, decided to restore them, and did so by the edicts of January and June of the said years.

By article II of the edict of 1730, it was specifically or-

dained that the former incumbents of the offices which had been suppressed might acquire the offices newly created upon the payment of sums fixed by the rôles decreed by the Council: namely, one-seventh in money and six-sevenths in liquidation of the former offices, in arrears of the same liquidations, and in supplemental contracts with the city; and with regard to those who had not been incumbents formerly, they were permitted to acquire the offices in like manner upon payment of one-sixth in money and five-sixths in contracts.

The taxes alienated to these offices having been compared, in 1759, with other taxes of the same kind re-established by the edict of December, 1743, and farmed out, it was discovered that there was a great disproportion between the products of these taxes and the finances of the offices. The late king, by his edict of September, 1759, ordained that the offices should be suppressed; that the taxes should be collected to his profit and that the product should be destined to the repayment of so much of the finances of the holders of the offices as was comprised in the sums loaned by them.

That edict announced to the people freedom from many branches of burdensome restrictions, and to the state the recovery of part of its revenue.

New requirements prevented its execution: the edict of March, 1760, permitted the holders of the offices suppressed to continue for a time the exercise of their functions and to enjoy their privileges; it ratified their suppression, however, by postponing the collection which would effect their reimbursement, the time of which was fixed at January 1, 1771, and to be completed in 1782. Circumstances continuing to be contrary to these provisions, it became necessary to provide by the declaration of December 5, 1768, that the beginning of repayment should be deferred until January 1, 1777, and be finished in 1788.

The edict of 1760 and the declaration of 1768, although permitting a temporary enjoyment of their privileges by the

incumbents, did not revoke the suppression decreed by the edict of September, 1759. That disposition remains in full force and ought to be put into execution at the moment when the holders of the offices may receive the indemnity which they have a right to claim by virtue of their warrants (*titres*).

That indemnity, fixed for them by article II of the edict of June, 1730, consists for part of them of one-seventh of their finances in money and six-sevenths in mortgage-contracts on the product of the same taxes; for the other part of them, it consists of one-sixth in money and five-sixths in contracts. Therefore, since the holders of the offices are assured of that indemnity the suppression ordained by the edict of 1760 ought to be in force.

The creditors of the guilds of officials should receive their payment in preference to the officials themselves, because the offices are encumbered and their profits mortgaged.

It is in accordance with our justice to preserve their rights and to assure the capital and interest of the credits which are due to them according to the profits of the taxes alienated to the said offices, until the execution of the arrangements ordained by the declaration of September 5, 1768.

Such an operation is equally advantageous to the officials, to their creditors, and to the people.

Most of the guilds complain that the products they enjoy at present are diminished to the point of being insufficient to acquit them of the charges with which they are burdened. Thus the incumbents of offices lose their value, and their creditors see the security of their credits diminishing and becoming inadequate.

On the part of our subjects, to whom we desire to give, on every occasion, tokens of our affection, their interest requires that the taxes heretofore alienated to these guilds be henceforth reunited in our hand and administered under our order, in order that, during the time that the state of our finances will not permit us to cease collecting them altogether, we may

have, at least, the best opportunity to make them less annoying by effecting in them such modifications and reductions as would be impossible if the existence of offices, continued in actual exercise, furnished pretexts to the incumbents to disarrange by demanding indemnities, the plans we purpose to adopt for the greatest advantage of our people.

For these causes, etc., we have, by our present edict, enacted and ordained as follows :

Article I. Article I of the edict of the month of September, 1759, will be executed ; accordingly, all offices created by the edicts of January, 1727, and June, 1730, connected with the ports, quays, stalls and markets of our good city of Paris, will continue suppressed, beginning from the day of publication of the present edict. We prohibit those who may be found holders of them, their clerks and officers, from continuing to exercise their functions in the future.

Article II. We except, however, the offices of supervisors, gaugers and measurers, *jurés-vendeurs* and comptrollers of wines and liquors, commission brokers of wines, and others such as have been combined in the domain and patrimony of our good city of Paris, by the declaration of August 16, 1733, and by the edicts of June, 1741, and August, 1744, of which offices the taxes will continue to be collected to the profit of the said city.

Article III. The taxes heretofore attributed to the guilds of officials, the suppression of which we specifically ordain, as well as the taxes combined in our *fermes*, will continue to be collected to our profit by the highest bidder for our taxes (*fermes*) beginning from the day of publication of the present edict and continuing until otherwise ordered by us, with the exception at all times of the taxes united in the domain and patrimony of our city of Paris, mentioned in the preceding article, which it will continue to enjoy as in the past.

Article IV. The proprietors of offices suppressed by the present edict will be reimbursed regularly from funds set apart

for the purpose by us, pursuant to the liquidation provided by the edict of March, 1760, and in the same manner as the finances of the said offices were paid into our casual revenue. Wherefore, those of the said proprietors who acquired the offices by paying one-sixth of the sums in money, will be repaid the said sixth in money, and those who acquired the offices by paying one-seventh only in money, will receive similarly only the said seventh. And with regard to the balance of the finance of the said offices furnished in collaterals, mortgages at 4 per cent. will be delivered to each of the said proprietors, the arrears of which, special effects under the product of the taxes heretofore attributed to them, will commence to run from the day they cease to exercise the functions of the said offices and to collect the taxes, and shall continue until they are wholly repaid.

Article V. Arrears of profits, due by the guilds of officials suppressed by the present edict, will be paid on the same basis as the said profits would be liquidated by the edict of March, 1760, and as the proprietors of the said privileged profits and mortgages on the product of taxes restored to our hand in consequence of the said suppression, will be paid.

Article VI. The balance of the product of these taxes, as well as the funds we shall designate from our finances, shall be used to reimburse the capital sums ; namely, by preference, to reimburse the profits now due by the said guild of officials, and subsequently the capital sums of the mortgages we shall give them to complete the finance of their offices. We will that the interest on the sums repaid be employed progressively to augment the sinking funds until the profits of the offices are wholly reimbursed, and that the product of the said taxes or the said interests be not diverted to any other use.

Article VII. We reserve the right to suppress, to simplify or to modify the said taxes reunited in our hand which may seem to us too burdensome to our people, either by reason of their nature or because of the formalities required for their collec-

tion. And if it happens that the product be diminished, the balance will be provided for by us by assigning some other branch of our revenues to the payment of arrears and the reimbursement of the capital due to the said officials and their creditors.

Article VIII. We annul all edicts, ordinances, declarations, decrees and regulations in all that may be contrary to the provisions of the present edict. So given by commandment, etc.

EDICT OF THE KING,

DECREEING THE SUPPRESSION OF CRAFT-GUILDS. (GIVEN AT
VERSAILLES IN THE MONTH OF FEBRUARY, 1776, REGIS-
TERED MARCH 12, AT A BED OF JUSTICE)

LOUIS, etc. We owe it to our subjects to assure them the full and complete enjoyment of their rights; we owe that protection especially to that class of men who, possessing nothing but their labor and industry, above all others have the need and right of employing to the limit of their capacity their sole resources for subsistence.

We have viewed with pain the multiplied blows which have been struck at this natural and common right of ancient institutions, blows which neither time, nor opinion, nor even the acts emanating from the authority, which seems to have sanctioned them, have been able to make legitimate.

In nearly all the cities of our realm, the exercise of various arts and trades is concentrated in the hands of a small number of *maîtres* incorporated in a guild, who may, to the exclusion of all other citizens, make or sell the particular objects of commerce of which they enjoy the exclusive privilege; consequently, those of our subjects who, by inclination or by necessity, desire to exercise the arts and trades, may do so only by acquiring the mastership (*maîtrise*), to which they are ineligible until they have passed an apprenticeship as long and arduous as it is superfluous, and after they have satisfied claims and multiplied exactions by which a part of the money they so greatly need to establish their trade or to open their shop, or even for their subsistence, they find consumed in sheer waste.

Those who are so unfortunate as to be unable to meet these

expenses are reduced to a precarious existence under the domination of *maîtres*, condemned to waste their lives in indigence, or to carry on outside their country an industry they might have made useful to the State.

Citizens of all classes are deprived of the right to choose what laborers they would employ, and of advantages competition would give them in the low price and excellence of labor. Often one cannot execute the simplest work without having recourse to many workmen of different guilds, without enduring the delays, the infidelities, the exactions which necessitate or favor the pretensions of the various guilds, and the caprices of their arbitrary and injurious régime.

Thus the effect of these institutions, on the part of the state, is an appreciable diminution of trade and of industrial labor; with respect to a numerous part of our subjects, a loss of wages and means of subsistence; on the part of the inhabitants of the cities in general, complete subjection to exclusive privileges, the effect of which is exactly analogous to that of an effective monopoly, a monopoly of which those who control it against the public are themselves the victims whenever they in their turn have need of the commodities or trade controlled by another guild.

These abuses crept in by degrees. They were originally brought about by the interests of private individuals who established them against public interests. It was only after a long interval of time that authority, possibly deceived, possibly seduced by the appearance of utility, gave to them a sort of sanction.

The source of evil is in the privilege accorded to artisans of the same trade of assembling and combining into a single body.

It appears that when the cities began to be freed from feudal servitude and to be formed into communities, the facility of classifying the citizens according to their profession introduced that custom which was unknown until that time. The differ-

ent professions thus came to be regarded as the private societies of which the general community was composed. The religious fraternities, by drawing more closely the bonds which united them with persons of the same professions, gave them more frequent occasion of assembling and of occupying themselves in the associations, with the interests common to that particular guild; an interest which they pursued with continuous activity, to the prejudice of those of society in general.

The corporations once formed promulgated their rules, and, under different pretexts, came to be authorized by the police.

The foundation of these rules is from the first to exclude from the exercise of a trade any one who is not a member of the guild; their general purpose is to restrict as far as possible the number of masters, and to render the acquisition of a mastership a difficulty almost insurmountable to any except the children of the existing masters. It is to this end that they have contrived the multiplicity of expenses and formalities of admittance, the difficulties connected with the arbitrary judgment of trial-pieces, especially the costly and needlessly protracted apprenticeships, and the prolonged servitude of the journeyman: institutions which have the further object of giving the masters gratuitously, during many years, the enjoyment of the fruits of the labors of the aspirants.

The guilds devote themselves especially to excluding from their territory foreign commodities and labor; they lay great stress on the pretended advantage of excluding from commerce such commodities as are supposed to be poorly made. The pretext led them to demand for themselves regulations of a new kind, tending to prescribe the quality of raw materials, their use and their manufacture; these regulations, whose execution was entrusted to officers of the guilds, gave to them an authority which became a means, not only of more effectually excluding aliens when suspected of infraction, but in addition of subjecting the masters of the guilds to the domination

of leaders, and of compelling them, under fear of being prosecuted as suspected offenders, never to separate their interests from those of the association, and thus making them accomplices in all the manœuvres inspired by the spirit of monopoly animating the leading members of the guilds.

Among these arrangements, unreasonable and carried out to an infinite number of minute rules, but always dictated by the greatest interests of the masters of each guild, is the one which excludes entirely all others than the sons of masters or those who marry the daughters of the masters. They reject, besides, those whom they call *foreigners*, that is to say, those who are born in another city. In a large number of the guilds, to be married is sufficient to exclude one from apprenticeship, and consequently, from a mastership.

The spirit of monopoly which has prompted the contrivance of these regulations, has been able even to exclude women from trades most appropriate to their sex, such as that of embroidery which they may not exercise even for their own account.

We will not pursue further the enumeration of the bizarre arrangements, tyrannical and contrary to humanity and good manners, which fill these obscure codes, conceived by greed, adopted without examination in times of ignorance, and which only need to be known to become the object of public indignation.

These guilds, however, came to be authorized in all the cities, together with all their statutes and privileges, sometimes by the letters of our predecessors, obtained under different pretexts or by means of money which they paid for their confirmation from reign to reign, frequently by the writs of our courts, sometimes by the simple decisions of police or even by custom alone.

At length the custom prevailed of regarding the restrictions put upon industry as common law. The government was accustomed to make a financial resource of the taxes imposed on the guilds and of the multiplication of their privileges.

Henry III. gave, by his edict of December 3d, 1581, to that institution the scope and form of a general law. He established the arts and trades in corporations and guilds in all the cities and villages of the kingdom; he subjected all artisans to the *maîtrise* and to the trade corporations. The edict of April 5th, 1587, enlarged yet more these arrangements by subjecting all merchants to the same laws as the artisans. The edict of March, 1673, purely fiscal, by ordaining the execution of the two preceding edicts, added to the guilds already existing, other corporations unknown before that time.

The Department of Finance sought more and more to extend the resources which it found in the existence of the societies. Independently of the taxes and establishment of the guilds and of new *maîtrises*, there was created in the guilds a class of offices under different names, and those holding the offices were obliged to purchase them by means of loans which they were compelled to contract, and on which they paid the interest with the product of the profits on the duties which were alienated to them.

It was doubtless the allurements of this means of finance which prolonged the delusion concerning the immense injury which the existence of guilds causes to industry, and concerning the blows which it struck to natural right. That delusion has been carried among some persons to the point of contending that the right of labor is a royal right, one that the Prince could sell and that the subjects ought to purchase. We hasten to place beside this another maxim:

God, by giving to men needs and making them dependent upon the resource of labor, has made the right of labor the property of all men, and that property is primary, the most sacred and most imprescriptible of all.

We regard it as one of the first obligations of our justice, and as an act in every way worthy of our beneficence, to emancipate our subjects from all the restraints which have been laid upon that inalienable right of humanity. Where-

fore, we will to abolish the arbitrary institutions which do not permit the indigent to live by their labor; which exclude the sex whose weakness implies greatest needs and fewest resources, and which seem, by condemning it to inevitable misery, to encourage seduction and debauch; which stifle emulation and industry and make useless the talents of those whom circumstances exclude from admission into the guild; which deprive the state and art of all the advantages which foreigners might furnish; which retard the progress of the arts by the difficulties which inventors find multiplied by the guilds, who thus dispute the right to exploit discoveries which they themselves have not made; which, by means of the inordinate expenses artisans are compelled to incur in order to acquire the liberty of labor, by the exactions of all kinds they must endure, by the multiplied penalties for so-called offenses, by expense and extravagance of every sort, by the endless litigations which arise between the different associations because of their respective claims concerning the scope of their exclusive privileges, surcharge industry with an enormous tax, grievous to the subjects and with no corresponding advantage to the state; which, in short, by the facility they afford to members of the guilds to combine among themselves and to compel the poorer members to submit to the rule of the wealthy, become an instrument of monopoly and give rise to schemes whose effect is to increase beyond all natural proportion the price of commodities which are most necessary for the subsistence of the people.

We shall not be deterred in this act of justice by the fear that a multitude of artisans will take advantage of the liberty bestowed upon all and embark in trades of which they are ignorant, and that the public will be inundated with poorly wrought articles. Liberty has not produced such evil effects in places where it has been established for a long time. Laborers in the suburbs and in other privileged places do not work less effectively than those in the interior of Paris. The

whole world knows, besides, how illusory is the police of the craft-guilds, so far as concerns the perfection of work done, and that, all the members of the guilds being moved by the *esprit de corps* to stand by one another, any individual who complains finds himself nearly always condemned, and is harried by prosecution in court after court until he finds the course of justice more intolerable than the object of his complaint.

Those who understand the development of trade know that all important enterprises, whether of traffic or of industry, require the concurrence of two industrial classes, entrepreneurs who advance the raw material and the necessary implements of trade, and simple laborers who work for the account of the first for wages agreed upon. Herein lies the real distinction between entrepreneurs or masters and laborers or journeymen; it is based in the nature of things and does not depend on the arbitrary institution of corporations. Surely, those who embark their capital in a business have the greatest interest to entrust their material only to good workmen; and there is no ground for fear that they will take the risk of employing poor workmen who can only mutilate their merchandise and drive away their purchasers. And it must be presumed, as well, that entrepreneurs will not put their fortunes into a business about which they do not know enough to be able to choose good workmen and to oversee their labor. We have no fear then, that the suppression of apprenticeships, of journeymen and master pieces, will expose the public to unacceptable service.

Nor do we fear that the sudden influx of a multitude of new workmen will ruin the older ones, and give a disastrous shock to business.

In places where business is freest, the number of merchants and laborers of all kinds is limited always, and necessarily in proportion to the need, that is to say, to consumption. It will not pass that proportion in places where liberty is restored.

No new entrepreneur will risk his fortune by sacrificing his capital in a venture where success is doubtful, and where he has reason to fear the competition of all the masters at present established in the enjoyment of the advantage of a settled business and patronage.

The masters who to-day compose the guilds, by losing the exclusive privilege they have as sellers, will profit as buyers by the suppression of the exclusive privilege of all other guilds. The artisans will profit by the advantage of not being dependent, in the fabrication of their articles, upon the masters of many other corporations, each of which claims the privilege of furnishing some indispensable part. The merchants will gain the privilege of selling all the assortments accessory to their chief trade. All will profit especially by being independent of the leaders and officials of their guild, and in having no longer to pay the fees of frequent visits, in having release from a multitude of contributions for wasteful or prejudicial expenses, costs of ceremonies, banquets, conventions, law suits, all as frivolous in their object as they are ruinous by their multiplicity.

In suppressing the guilds for the general advantage of our subjects, we owe it to their legitimate creditors who have entered into contracts with them in the period of their authorized existence to provide for the security of their credits.

The debts of the guilds are of two classes; the one arise from loans made by the guilds, the amounts of which have been turned into our royal treasury for the acquisition of the offices created and now abolished; the other arise from loans they were authorized to make in order to meet their own expenses of all kinds.

The taxes alienated to these offices, and the fees the guilds have been authorized to collect, have been devoted hitherto to the payment of the interest on the debts of the first class, and even in part to the repayment of the capital. The amount of the same profits will continue to accumulate in our accounts, and

the same fees will be collected in our name, to be devoted to the payment of interest and capital of these debts until they are wholly discharged. The part of their revenue which has been used by the guilds for their private expenses, being now released, will serve to augment the sinking fund which we design for the repayment of the capitals concerned.

With regard to the debts of the second class, by the reckoning we have secured of the condition of the guilds in our good city of Paris, we are assured that the amounts they have in bank, or which are due to them, and the chattels they hold and which their suppression will make subject to sale, will be sufficient to discharge what remains to be paid of those debts; and if they are not sufficient, we will provide the balance.

We believe we thus render all justice due the guilds; for we think we ought not repay to their members the taxes required of them from reign to reign, for the right of confirmation or enjoyment. The object of those taxes, which frequently did not come into the treasury of our predecessors, has been attained by the enjoyment the guilds had of their privileges during the reign under which the taxes were paid.

The privilege had to be renewed in each reign. We have restored to our people the sums our predecessors were accustomed to collect for their enjoyment; but we have not renounced the right, inalienable from our sovereignty, of summoning for examination the privileges too readily granted by our predecessors, and of refusing them confirmation if we judge them prejudicial to the welfare of the state and contrary to the rights of our other subjects.

It is for this reason that we have determined not to confirm them, and to revoke expressly the privileges accorded by our predecessors to guilds of merchants and artisans, and to pronounce that revocation general throughout our kingdom, because we owe the same justice to all our subjects.

But that same justice requires that at the moment when the suppression shall be effected provision be made for the pay-

ment of their debts, and since the explanations we have requested of the condition of those in the different cities of our provinces have not yet been furnished, we have decided to suspend, by a separate article, the application of our present edict to the guilds of the provincial cities until we shall have taken the necessary measures to provide for the discharge of their debts.

We regret that we are forced to except, for the present, from the liberty we are giving to all kinds of business and industry, the guilds of barbers, wig-makers, and bath-keepers, which institutions differ from other bodies of the same kind, in that the masterships of these callings were created by virtue of offices, the revenue from which has been received in our casual revenue, with the privilege extended to the officials of retaining their ownership by the payment of one per cent. We are compelled to defer the emancipation of this kind of industry until we may make arrangements for the extinction of those offices, and we will do this as soon as the condition of our finances will permit.

Certain vocations are susceptible of abuse and affect the confidence of the public, or the general police of the state, or even the safety and life of men: these trades require a surveillance and special precaution on the part of the public authority. These vocations are pharmacy, gold-smithing, and printing. The rules to which these have been subject are parts of the general system of craft-guilds, and without doubt, in that respect, they ought to be revised; but the special features of that reform, the arrangements which it will be best to preserve or to change are objects so important as to demand careful examination and reflection. And while we reserve the right to make known later our intentions in the matter of the rules to be fixed for the practice of these trades, we believe that, for the present, they should not be changed from their existing state.

In assuring to business and industry entire liberty and the

full competition it should enjoy, we will take such measures as the preservation of public order may require, in order that those who follow the different crafts, arts and trades may be known and established, at the same time, under the protection and the discipline of the police.

To this end, the merchants and artisans, their names, residence and employment will be exactly recorded. They will be grouped, not on the basis of their vocations, but according to the quarter where they have their domicile. And the officials of the guilds abolished will be replaced advantageously by syndics established in each quarter or *arrondissement*, to guard public order, to report to the magistrates charged with the police, and to transmit their orders.

All the guilds have numerous law suits: all litigation which the corporations have among themselves will be quashed because of the reform of the exclusive rights they claimed. If, on the dissolution of corporations and guilds, it is found that some cases have been begun and prosecuted in their name which present objects of permanent interest, we will provide that these be carried to a final judgment, for the preservation of whatever rights pertain thereunto.

We will provide further that that class of suits at law, which are frequently raised between artisans and those who employ them, concerning the perfection or the price of labor, may be ended by whatever means are most simple and least costly.

For these causes, etc., etc.,

Article. I It shall be free to all persons, of whatever quality and condition they may be, even all foreigners who may not yet have obtained letters of naturalization from us, to embrace and to exercise in all our kingdom, and especially in our good city of Paris, such kind of business and such profession of arts and trades as may seem good to them, even combining many: to this end we have abolished and suppressed, we will to abolish and suppress all corporations and guilds of merchants and artisans, as well as masterships and craft-guilds. We abrogate

all privileges, statutes and regulations given to the said corporations and guilds, by reason of which none of our subjects may be annoyed in the prosecution of his business and his trade, for any cause or under any pretext whatsoever.

Article II. And it will be required, nevertheless, that all those who desire to pursue the said profession or business shall make preliminary declaration before the Lieutenant-General of Police, which will be inscribed in a record provided for that purpose, and will contain their names, surnames and domiciles, the kind of trade or business they purpose to undertake, and in case of change of residence or of business, or of retiring from business or labor, the said merchants or artisans will be required in like manner to make their declaration to the said recorder, free from all expense, on penalty against those who pursue their callings without having made the said declaration, of seizure and confiscation of their articles and merchandises, and a fine of 50 livres.

We exempt, however, from that obligation the present masters of corporations and guilds, who will not be required to make the said declarations except in case of change of domicile, of business, of new combination of trades, or retirement from business and labor.

We exempt further those who are now, or who may wish to become, wholesale merchants, our intention being not to subject such to any rules or formalities to which wholesale dealers have not been subject hitherto.

Article III. The declaration and inscription in the police records, ordained in the preceding article, concerns only those merchants and artisans who labor for their own account and sell to the public. With regard to the common laborers, who are not answerable directly to the public, but to entrepreneurs or masters, for whose account they work, the said entrepreneurs or masters will be required, on every requisition, to submit to the Lieutenant-General of Police a statement containing the name, domicile and kind of work of each of them.

Article IV. We do not intend, further, to include in the dispositions effected by articles I. and II. the vocations of pharmacy, gold-smithing, printing and book-selling, with regard to which there will be no innovation until we may enact for their control whatever pertains thereunto.

Article V. We exempt in like manner from the provisions of the said articles I. and II. of the present edict the guilds of master *barbiers-perruquiers-étuvistes* in the places where their business is exercised until otherwise ordained by us.

Article VI. We will that the present masters of the guilds of butchers, bakers and others whose trade has to do with the daily subsistence of our subjects may not abandon their business within one year after the declaration which they will be required to make before the Lieutenant-General of Police that they intend to withdraw from their business and trade, on penalty of 500 livres fine, and heavier punishment if it befall.

Article VII. Merchants and artisans who are obliged to keep a record of the names of those persons from whom they buy certain commodities, such as silver-smiths, haberdashers, second-hand dealers and others, will be required to abide faithfully by those records, and to submit them to the officials of police on the first requisition.

Article VIII. Any drugs, the use of which may be dangerous, shall not be sold except by apothecaries or by merchants who shall obtain special written permission from the Lieutenant-General of Police, and besides, shall be required to inscribe in a record, signed by the Lieutenant-General of Police, the names, rank and residence of the persons to whom they may wish to sell them, under penalty of 1000 livres fine, even of extraordinary prosecution, according to the requirements of the case.

Article IX. Such arts and trades as may occasion in their operation dangers or exceptional inconvenience, either to the public or to private individuals, will continue to be subject to police regulations, made or to be made, in order to preclude those dangers and inconveniences.

Article X. *Arrondissements* will be formed in the different quarters of the cities of our kingdom, and especially in our good city of Paris, in each of which a syndic and two assistants will be appointed by the Lieutenant-General of Police, for the first year only, and after the registration and then upon the execution of the present edict; afterwards, the said syndics and assistants shall be chosen annually by ballot by the merchants and artisans of the said *arrondissement*, in an assembly held for that purpose in the house of and in the presence of a commissioner appointed by the Lieutenant-General of Police; which commissioner shall draw up an official report free of expense; then the said syndics and assistants shall take oath before the Lieutenant-General of Police, to exercise supervision over the traders and artisans of their *arrondissement* without distinction of condition or business, to report to the said Lieutenant-General of Police, to receive and to transmit his orders, and those who are appointed syndics and assistants may not refuse to discharge the functions appointed them, nor by reason of the same may they demand or receive from the said merchants or artisans any sum, either as a present, by virtue of their honors, or as an exaction: we expressly forbid this on penalty of the law on malversation of public moneys.

Article XI. Law suits which arise because of bad workmanship or defects in finished goods will be brought before the Lord Lieutenant-General of Police, to whom we delegate exclusive jurisdiction, in order that, on the agreement of experts commissioned for that purpose by him, immediate judgment may be had, without cost, and in final resort, except in case the demand for indemnity exceeds the sum of 100 livres; in which case the matter will be tried in the ordinary form.

Article XII. In like manner there will be brought before the Lord Lieutenant-General of Police, for immediate judgment, without cost and in last resort, up to the amount of 100 livres, the law suits which may arise over the execution of engagements of time, apprentice contracts and agreements

made by the masters and the laborers working for them, relative to that labor; and in case the sum at issue exceeds the value of 100 livres, they will be tried in the ordinary form.

Article XIII. We expressly forbid wardens or officials in charge of corporations or guilds to make hereafter any visits, inspections, seizures; to institute any action in the name of the said guilds; to convoke, or to assist to convoke any assembly under any pretext whatever, even under the pretext of acts of fraternities, which custom we abolish; and in general, to discharge any function in the capacity of wardens, and especially to demand or to receive any sum from members of their guilds, under any pretext whatever, on penalty of the law respecting malversation of public moneys, excepting, however, such sums as may be due to us for the taxes of the members of the said corporations and guilds, and the collection of these sums, both for the current year and what remains to be collected for preceding years, shall be made and continued in the usual form until payment is complete.

Article XIV. We forbid in like manner all masters, journeymen, laborers and apprentices of the said corporations and guilds to form any association or assembly among themselves under any pretext whatever. Wherefore, we have abolished and suppressed, do abolish and suppress, all fraternities which may have been established either by the masters of corporations and guilds or by journeymen and laborers in the arts and trades, even though set up by the statutes of the said corporations and guilds or by all other private claims, or even by letters-patent from us or our predecessors.

Article XV. With regard to the chapels erected on account of the said fraternities, endowments of the same and property included in the endowments; we will that provision for their employment be made by the bishops of the dioceses, in whatever manner they may deem most useful as well as to acquit the endowments; and letters patent will be drawn up, addressed to our court of parlement, in accordance with the decrees of the bishops.

Article XVI. The edict of the month of November, 1563, establishing consular jurisdiction in our good city of Paris, and the declaration of March 18, 1728, will be executed, as to the election of Consular Magistrates, in all that is not contrary to the present edict. Wherefore, we will that the presiding Consular Magistrates of the said city may be required to summon and assemble, three days before the expiration of their year, merchants to the number of sixty, citizens of the said city, provided that not more than five from each of the three guilds not suppressed may be summoned, apothecaries, gold-smiths and printer-booksellers, and not more than twenty-five appointed from among those who follow the vocations and business of dry goods, groceries, haberdashery, furs, hosiery, and wine selling, whether they conduct these trades singly or combine with them other branches of trade or of arts and commerce, amongst whom will be admitted by preference the wardens, syndics and assistants of the three guilds not suppressed and also those who are exercising, or who may exercise the functions of syndics or assistants of merchants or artisans in the various *arrondissements* of the said city; and with regard to those whom it may be necessary to add in order to fill out the number of sixty, they may be summoned up to the number of twenty by the said magistrates and consuls, from merchants and business men or other prominent *bourgeois* who are versed in business affairs; these sixty, together with the five Consular Magistrates presiding, and no others, thirty-two of them choosing, shall proceed, in the form and according to the provisions decreed by the said edict and the said declaration, to elect new magistrates and consuls; these shall take the oath of office in the great hall of our parliament in the accustomed manner.

Article XVII. All law suits now pending, in whatever court, between the said corporations and guilds, arising out of their claims or privileges or any other pretense whatever, shall be terminated by virtue of the present edict.

We forbid all *gardes-jurés* who have power of attorney, and all other agents whatever of the said corporations and guilds, to take any action by reason of the said suits, on pain of nullity and of answering in their person and private name for all costs which may be incurred. And with regard to suits resulting from seizures of chattels and merchandises, or whatever may have been given in place of them, we will that they in like manner be and remain terminated, and that the said chattels and merchandises be returned to those from whom they were seized, by virtue of a plain receipt which they shall give to the persons who happen to be in charge of the goods or acting as depositaries; reserving the provision for costs incurred until the day appointed for payment shall be set by the Lieutenant-General of Police, whom we appoint to this end, at which time the restitutions, damages, interests and costs which may be due to private individuals shall be taken from the sums belonging to the said guilds, if they are sufficient to cover the said amounts; if they are not, other provision will be made by us.

Article XVIII. With regard to the law suits of the said corporations and guilds which involve landed property, sites, payments on arrears of profits and other objects of like nature, we reserve to ourselves the right to provide the means of securing prompt investigation and trial by the courts where they are now on the docket.

Article XIX. We will that, within the space of three months, all wardens, syndics, and magistrates, both those who are now presiding and those who are about to relinquish their offices, as well as those who have not yet made their reports of their administration, be required to submit them, namely, in our good city of Paris, to the Lieutenant-General of Police, and in the provinces to commissioners whom we shall appoint for that purpose, in order that writs and revisions may be executed in the ordinary form, and constraints issued for the payment of the balance as shall be enacted by us, in order that all sums arising may be used to discharge the debts of the said guilds.

Article XX. To the end of providing for the payment of the debts of the said guilds of the city of Paris and for securing the claims of their creditors, there will be placed, without delay, in the hands of the Lieutenant General of Police, schedules of the said debts, of payments made, of what remains to be paid, of means on hand for their payment, both fixed real estate and property and chattels and accounts which may happen to belong to them. All those who claim to be creditors of the said guilds will be required in like manner, within three months from the day of publication of the present edict, to submit to the Lieutenant-General of Police the titles of their credits, or certified copies of the same, in order that provision for their payment may be assured in whatever sums may belong to them.

Article XXI. The product of duties imposed by the kings, our predecessors, on different materials and merchandises, the collection and control of which have been granted to some of the corporations and guilds of the city of Paris, as well as the profits which have been assigned to them through the purchase of offices created at various times, and which have been included in the list of charges upon our finances, will continue to be exclusively devoted to the payment of arrears and to the payment of the capital of the loans made by the said guilds. We will that any sum in excess, arising from these products, above what will be necessary to discharge the arrears, as well as the entire saving resulting either from the diminution in the cost of collection or from the extinction of the expenses of the guilds which were taken out of these products, or from the diminution of interest charges because of successive reimbursements, be used as a sinking fund for the entire extinction of the capital of the said loans; and to this end a particular bank will be designated by us, under the inspection of the Lieutenant-General of Police, into which will be turned annually the amount of the said profits as the product of the said administrations, to be used only for the payment of arrearages and the repayment of capital.

Article XXII. Proceedings will be brought before the Lieutenant-General of Police for the sale of the land and other real estate as well as of the chattels of the said corporations and guilds, the product of which shall be used in the discharge of their debts, as has been enacted by article XX. herein. And in case the product of the said sale exceeds, for any corporation or guild, the amount of its debts, both to us and to private individuals, the said excess shall be divided in equal portions among the present masters of the said corporation or guild.

Article XXIII. With regard to the debts of corporations or guilds established in our provincial cities, we enact that, in the said space of three months, those who claim to be creditors of the said corporations or guilds be required to put into the hands of our Lieutenant-General of Police the titles of their said credits, or summarized schedules of the same, in order that the amount of the said debts may be determined by us and provision be made for their payment; and until we have taken the necessary measures to accomplish that end, we suspend in our provincial cities the suppression ordained by the present edict.

Article XXIV. We have made void and do make void by the present edict, all edicts, declarations, letters-patent, writs, statutes and regulations contrary to this present edict.

So given and commanded, etc., etc.

EDICT OF THE KING

ENACTING THE SUPPRESSION OF THE EXCHANGE OF POISSY,
AND THE CONVERSION AND MODIFICATION OF DUTIES.

(GIVEN AT VERSAILLES IN FEBRUARY, 1776,

REGISTERED BY PARLEMENT ON THE

9TH OF FEBRUARY, 1776)

LOUIS, etc. It not infrequently happens, in the necessities of the State, that it is sought to adorn the taxes, which must needs be imposed, by some pretext of public utility. That subterfuge, to which the kings our predecessors sometimes believed it necessary to descend, has rendered the taxes, the birth of which it marked, more onerous. One of its results was that the taxes endured long after the need which had been their real cause, by reason of the apparent utility by which they were disguised, or that they were renewed under the same pretext, which favored various private interests.

Thus in January, 1690, to sustain the war begun in the preceding year, sixty offices of *jurés-vendeurs* of cattle were created, to which was granted one sou per livre of the value of the cattle consumed in Paris, on condition that they pay foreign merchants the cash for the animals they brought in: this appeared likely to encourage the trade and to procure abundance by preventing the delays to which the drovers were exposed so long as they dealt directly with the butchers.

The first trial gave rise to innumerable complaints on the part of both foreign merchants and the butchers, who represented that the creation of *jurés-vendeurs* of cattle was a grievous burden on their trade instead of an advantage to it; that there was no need of any intermediary between the men who

supplied the animals and those who retailed to the public; that Paris had been provisioned before without any one appointed to advance payments to the vendors of animals; and that the tax of one sou per livre necessarily raised the price of meat and lessened the demand. These representations were regarded; and, by a declaration of March 11th of the same year, the king, Louis XIV., "wishing," said he, "to treat with consideration the said foreign merchants and the butchers of the said city of Paris, and to procure an abundance of cattle for it," suppressed the sixty offices of *jurés-vendeurs*. However, at the end of seventeen years, in 1707, in the course of an unfortunate war, after having exhausted all other resources, recourse was again had to the arguments which produced the edict of 1690: it was alleged that certain individuals were exacting from the butchers usurious charges, and one hundred offices of Treasury-Counsellors of the Bourse of the markets of Sceaux and of Poissy were created, with the view of having a bureau in daily oversight of the market, to advance to foreign merchants the price of the animals sold by them to butchers and other solvent merchants; and these officials were authorized to collect one sou per livre of the value of all animals sold, even of those for which they had not advanced the price. This institution, so strongly suggestive of the times of calamity, was suppressed again when peace was assured.

The trade in cattle, freed from fees and kindred shackles, recovered its natural course and continued for thirty years without interruption. During that period Paris was abundantly provisioned, and the raising of cattle flourished in many of our provinces.

But the expenses of a new war urged the government, at the end of 1743, to make use of the same financial resource which was supported by the same pretext. It was supposed to be necessary to lower the price of animals by putting the foreign merchants in position to supply the greatest possible number. It was held that the most plausible means of accomplishing

this was to pay them in cash, and that this advantage would not be too dear at a deduction of one sou per livre. But although that deduction was established for all sales of animals, the bank was exempted, as in 1707, from advancing the price to those who sold to butchers not of recognized solvency ; the period of credit to others was limited to two weeks. These rules restricted the usefulness of the bank, practically, to collecting a fee of one sou per livre.

That fee was farmed : it has continued from that time to be a part of the revenue of the State. One-fourth sou per livre was added by the edict of 1747, and continued in force by lettres-patent of March 16, 1755, and of March 3, 1767.

In bringing these edicts and letters-patent to our attention, we have been unable to escape the conviction that their provisions were directly opposed to the effects it was hoped and promised would be accomplished by them.

The duty of six per cent., which raised the price of each animal more than *fifteen livres*, did not fail to raise the price of meat instead of lowering it, and to cut down the profits of the breeders who raised and fattened the stock ; it discouraged that industry and annihilated the abundance, not only of meat in the shops, but still more of the herds which the pastures might have supported, had there been adequate profit in raising the greatest possible number.

On the other hand, if it seems advantageous that the majority of the foreign merchants should receive in cash the price of the cattle brought in by them, it is no less contrary to every principle of justice that the wealthy butchers who are able to pay their bills in cash for themselves, should, notwithstanding that, be compelled to pay interest on an advance they do not need ; and that the butchers who happen to be in less easy circumstances and to whom credit is refused on the ground that they are not regarded as unquestionably solvent, be also compelled to pay the interest on an advance which is not made for them at all.

The edict which created the exchange fixed fifteen days as the limit of time for the butchers to acquit themselves of their obligations to the bank of Poissy, and gave to the farmers of that exchange the right of corporal constraint in the third week; the result is that the effective advance of amounts loaned is never equal to one-twelfth of the amount of the sales; it should be much less than that, inasmuch as the bankers, having the right to refuse credit to butchers of questionable solvency, are far from making advances for all the sales.

Nevertheless, the interest has to be paid just as if the whole amount of the sale had been advanced, and in like manner if the sale is made on the first day of the year, interest must be paid as if it was for the full year. The tax that is paid ought, then, to be regarded less as the price of advances made to butchers as a genuine tax on cattle and on butcher's meat.

We would desire that the condition of our finances permitted us to sacrifice entirely that branch of revenue; but since that is impossible, and we cannot tolerate it in its present form, we have preferred to replace it by an increase of duty collected on entry into Paris, both on live animals and on meat destined for consumption. The simplicity of that method of collection, which involves no new expense, places us in position to relieve our subjects, at the present time, from about two-thirds of the burden laid on them to provide the fees of the Exchange of Poissy.

Besides, we are convinced that the greatest advantage our subjects will derive from the change will result from the greater freedom which the suppression of the Exchange of Poissy will bring to the trade in cattle. It is from that liberty, from the competition it will beget, and the encouragement it will give to production, that there may be attained the re-establishment of abundance of herds and moderation in the price of so large a part of the subsistence of our subjects.

For these causes, etc., we have, by the present edict, enacted and ordained as follows:

Article I. We will that, beginning from the first day of Lent of the present year, the fee of one sou per livre of the value of animals designed for the provisionment of Paris, established by edict of 1744, and the additional one-fourth sou per livre of the said fee, established by the edict of September, 1747, both continued by letters-patent of March 16, 1755, and March 3, 1767, and collected by virtue of the same at the markets of Sceaux and Poissy, be and remain suppressed.

Article II. In order to make good in part the diminution which will be effected in our revenues by the suppression of fees enacted by the preceding article, in the future, there will be collected, beginning from the first day of Lent next following, at the gates and entries of our good city of Paris, in addition to, and in increase of, the duties which are now established, the extra fees herein announced :

	Livres.	Sous.	Deniers.
For each bullock	5	1	1
“ “ cow	3	10	
“ “ calf		11	10 $\frac{1}{2}$
“ “ sheep		6	
“ “ pound of dressed beef, veal and mutton .			5 $\frac{1}{2}$

Article III: The supplemental duties established by the preceding article being entirely destined to replace that part of our revenue, which came from the duty of one sou per livre and the one-fourth sou per livre of the same, established on the sale of animals in the markets of Sceaux and Poissy, and which we have suppressed by the preceding article; the said supplemental duties cannot be subject to, nor give place to, any duty of first or second twentieths, old or new sous per livre, fees of officials, gratuitous gift, fee of service, and sous per livre of the same in favor of the General Hospital of the city of Paris, of any *titulaires* of offices, of any administration, or of the highest bidder of our *fermes*.

Article IV. The duty on each pound of veal will be lowered to a total of six and sixteen twenty-fifths deniers, and reduced

to the same basis as that per pound of beef, veal or mutton, reserving the right of indemnity to whatever amount may pertain thereto.

Article V. We have suppressed, and in like manner do suppress, beginning from the same day, the Caisse or Bourse of the markets of Sceaux and Poissy, established and prorogued by the edicts and declarations of 1743, 1755, and 1767; we cancel the former lease to Bouchinet and his sureties; and we release him from the engagements under it, reserving to ourselves to provide whatever indemnity the highest bidder of our *fermes-générales* may claim because of the one-fourth sou per livre included in his lease.

Article VI. We authorize the said Bouchinet and his sureties to recover, within the accustomed period, the sums they may happen to have advanced before the said first day of Lent: we will that they cease to make new advances, and we confirm them in the right of prosecution and privilege which they have enjoyed heretofore for the recovery of their funds.

Article VII. We permit butchers and foreign merchants who bring in animals to them, to make among themselves such agreements as they judge fit, and to stipulate such credit as shall seem good to them.

Article VIII. We permit, also, among those who have managed for us the said Caisse or Bourse of Poissy, and to all others of our subjects, to loan, on conditions which shall be mutually and voluntarily accepted, their money to butchers who believe they have need of it in the conduct of their business.

Thus do we give and command, etc.

LETTERS-PATENT

OF FEBRUARY 6, 1776, ENACTING A CHANGE AND MODIFICATION
OF TAXES ON SUET. (REGISTERED MARCH 12 AT
A BED OF JUSTICE)

LOUIS, etc. Having rendered an account in our Council of the different police regulations, decisions and writs interfering in the matter of trade in suet in our good city of Paris, and also of the taxes of different nature which are collected on that commodity, and of the form of their collection, we have discovered that the imaginary precautions, taken during a period of two centuries, to procure the abundance and cheapness of a substance so essential to meet the needs of our people, have had necessarily effects directly opposite to what was intended; that, by the old rules of 1567 and 1577, maintained by later decisions, and particularly by a writ of August 19, 1758, no permission was granted either to the butchers who collect and render the suet to handle it themselves and to sell it freely, or to the chandlers who made use of it, to supply themselves with whatever quantity they deemed necessary for their work; that the suet had to be set out for sale on fixed days, and divided among the master chandlers, who could pay only a uniform price on penalty of fine; that what it became necessary to import in order to supply what was lacking in our kingdom, was subject to the same rules and a like division, and that as a result, no private individual could be permitted to speculate in this useful branch of trade; that the whole guild of chandlers could not do so, even if they were free, because of the heavy duties laid upon the importation of that material, until they had persuaded the late king, our very

honored lord and grandfather, to moderate them by the writ of his Council of November 28, 1768. We have been unable to discover in that police, so contrary to all the principles of trade, anything other than a consequent abuse resulting from the vicious constitution of corporations and guilds which we are determined to suppress. Our purpose being that for the future the business of butcher and chandler, as well as all others, shall be freely followed, the method of exposing for public sale and division among the master chandlers can no longer continue; and, the taxes to which it has been subject being no longer suffered to be collected in the manner hitherto followed, it is necessary to substitute a method simpler and more advantageous to the people. Wherefore, we have provided this by a writ issued this day in our Council, in our presence, and we have ordained that for its execution all necessary letters shall be drawn up. For these causes, etc., We have decreed as follows :

Article I. Trade in suet shall be free for the future in our good city of Paris, and the obligation of exposing it for sale for division among the chandlers, shall remain abrogated, beginning from the publication of the writ of this date and these presents, notwithstanding all decisions of police and writs in confirmation of the same, which we will to be regarded as null and void; wherefore, all butchers shall be free to sell, as well as all chandlers to purchase the said commodity, in such times or places, and in such quantity as shall seem good to them.

Article II. The tax of a sou per pound levied on the sale of suet in the interior of Paris, shall be suppressed and shall cease to be collected beginning from the same day.

Article III. In order to supply the amount of the said tax, it will be replaced by a tax on the animals which produce the suet, in proportion to the average quantity taken from them; which tax, moderate in itself, will be collected only at the entries and barriers of Paris, at the rate of 2 livres 12 sous 2 $\frac{2}{5}$ deniers per bullock, 1 livre 5 sous 5 $\frac{1}{5}$ deniers per cow, and 5 sous 2 deniers per head of mutton.

Article IV. The said tax of entrance established by the preceding Article shall not be subject to any additional fees in favor of the city of Paris, of the General Hospital, or of our Farmers-General, since the tax is only by way of replacement and the tax which it replaces was not subject to any additional fees.

Article V. The main tax of one hundred sous per quintal, on the entrance of foreign suet into Paris, will be reduced to 1 livre 10 sous 9 $\frac{3}{5}$ deniers, so that, with the fees of domain, *barrage*, *poids-le-roi*, and sou per livre of the same, which amounts to 11 sous 2 $\frac{2}{5}$ deniers, it will make the sum of 2 livres 10 sous per quintal, or 6 deniers per pound of suet or of tallow.

Article VI. All additional taxes of first and second twentieths, 4 sous per livre of the first twentieth, *gare*, gratuity, twentieth of gratuity, and 8 sous per livre of the same, established on the entry of foreign suet, shall be and remain suppressed, we reserving, if it so happen, the right to make whatever indemnity may pertain thereto.

Article VII. The taxes established by articles III. and V. herein shall be administered and collected by the contractor (*adjudicataire*) of our *fermes-générales*, for our account; therefore, the managers for us who are in charge, under the name of *ouache*, of the recovery of the combined taxes will be absolved from making any account, as well of the product of taxes on the sale of suet in the interior of Paris, as of that which is secured from the suburbs, and also of the principal tax *d'entrée* on foreign suet; and this is in effect from the day the *adjudicataire* of our taxes shall begin to administer the taxes established by way of replacement.

Article VIII. We abrogate all ordinances, writs, and regulations contrary to the provisions of the preceding articles.

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- P. 17, l. 6 from bottom. Before "wrung" insert "were."
P. 17, l. 5 from bottom. For "of" read "for."
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HANOVER AND PRUSSIA

1795-1803



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HANOVER AND PRUSSIA

1795-1803

A STUDY IN NEUTRALITY

BY

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PREFACE.

A PASSING remark in one of Professor Hans Delbrück's lectures on the revolutionary and Napoleonic era called my attention to the peculiar complications which resulted from the union of England and Hanover during the eighteenth century. The interest then aroused was at first turned most naturally toward the subject of the mutual influence which the two members of the Personal Union might be supposed to have exercised upon each other, and particularly to the question of Hanover's influence, cultural and political, upon the English dominions of its elector.

Thus it was that I entered upon a study of Hanoverian history after 1795 with the hope that the relations between the Electorate and England would give the investigation a wider outlook and deeper interest than that offered by the history of other minor German states in the period. The title and table of contents of this monograph will readily show how definitely I was obliged to abandon my expectation of seeing England come to the fore in a study of Hanoverian history in the years after the treaty of Basel. The study has, I hope, not the less breadth and interest, but these arise not from the relation of Hanover with England, but from the complete dominance of Prussia in Hanoverian politics, a dominance so complete that one can hardly speak of an independent Hanoverian policy in these years. The following

pages show primarily two things which my preliminary study of printed works had only suggested as possibilities. First, how and why the standpoint of Prussian interests furnishes the proper interpretation for Hanoverian history in the years between 1795 and 1803. It shows, secondly, and I think with equal conclusiveness, that Hanoverian history is the key to many things in Prussian policy in the same period, inasmuch as it is the history of the most important of those north German states whose geographical situation made their fate of supreme moment to Prussia.

In its title, then, and in the topics it treats, the following study is a result of the historical situation which the archival sources revealed; for the results here presented are based almost wholly on archival material, some of it published, but by far the greater part examined in the original manuscript copies. The material I have used was gathered during two summers spent in the archives of Hanover, Berlin, London and Dresden. These gleanings I have supplemented by the documents in volumes VIII. and XXIX. of the *Publicationen aus den königlichen preussischen Archiven* (these two volumes edited by Dr. Paul Bailleu) and by the *Papiers de Barthélemy*, published by the French Foreign Office under the editorship of M. Kaulek. The works of Malmesbury, Massenbach, Ranke, Hüffer, Ulmann, Vivnot, Ompteda, Martens, Bailleu, Wohlwill and many others, to whom the footnotes give due credit, have supplied, in whole or in part, documents otherwise inaccessible. I have referred carefully to all sources, printed or manuscript, and in the case of the latter I have often printed such excerpts as would enable the reader to test for himself the statements made in the text. Though obliged to use many different libraries, I

have endeavored to obtain uniformity in the references to works having different editions.

I can not refrain from expressing the modest hope that this monograph will help in a small way to call attention to a field of Prussian history which deserves, and will repay, more study than it has hitherto received. Prussian historians, after the style of Treitschke, have too often condemned the period of neutrality as one of unrelieved weakness and disgrace. Thus having wiped out what their modern and somewhat intense nationalism leads them to consider as one of the dark pages in Prussian history, they hasten on from the reign of Frederick the Great to the reforms of Stein, Hardenberg and Scharnhorst and the more glorious years of the Wars for Liberation. Throughout the preparation of this study the writer has felt the need of an unprejudiced history of the reign of Frederick William II. and of the earlier years of his son's reign. Men like Hertzberg, Haugwitz, Hardenberg and the Duke of Brunswick would repay, in a lesser degree, perhaps, such treatment as Professor Lehmann has given Scharnhorst and Stein, and there is a place for briefer but equally conscientious studies of such men as Lombard, Struensee and von Dohm. Such investigations might help to give us that profounder knowledge of the political, military and social conditions in unreformed Prussia after Frederick the Great—the critical period in Prussia's history—without which we cannot understand the era of reform or the Greater Prussia of the nineteenth century.

In the preparation of this study I have been placed under obligations to many helpful friends and acquaintances. The collection of the material for it was made possible by the unfailing courtesy of those Prussian scholars into whose hands has been committed the keep-

ing of the state's archives. Drs. Doebner and Fink, in Hanover, and Drs. Bailleu, Loewe and Keller, in Berlin, have given me every assistance in examining and transcribing the documents in their charge. To Dr. Paul Bailleu I am further indebted, not only for his own publications in this field, but also for his kindness in reading and criticizing my chapters on the Prussian occupation of Hanover in 1801. Through the liberality of the English Foreign Office, and the kindness of the gentlemen in charge of the Public Record Office and of the manuscript room of the British Museum, those two invaluable collections were freely opened to me. In the preparation and printing of the following chapters, I have received the aid of two young American scholars whom I would name with gratitude, Dr. Charles G. Osgood, instructor in English in Yale University, and Dr. James T. Shotwell, instructor in history in Columbia University. To others whom I may not name I feel I owe much for assistance freely given. But more than to all others my thanks are due to Professor William M. Sloane, whose kindly criticism and encouragement have enabled me to present this study in its present form.

The calendar reminds me that by a happy chance I am enabled to conclude this preface on the centennial anniversary of the surrender of the Hanoverians to the French, the event which closes the period covered by this study.

GUY STANTON FORD.

BRISTOL, WISCONSIN, *July 5, 1903.*

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CHAPTER I

INTRODUCTION

IN the period between 1789 and 1803, no other minor German state so largely influenced the course of European affairs as the Electorate of Hanover. The reason for this lies not so much in the inherent greatness and force of the Electorate itself, as in a peculiar combination of circumstances by which the hitherto peaceful annals of Hanover are made to reflect like a mirror the history of Prussian policy, and, in a certain degree, the history of Revolutionary and Napoleonic Europe. The truth of this statement will be more apparent to one who recalls in outline certain historical events in the previous history of the eighteenth century, and studies the territorial results of these events upon the map of Europe in 1795.

The years 1714-1715 mark a turning point in the history of Europe. The age of Louis XIV. was ended and the eighteenth century had begun. By the treaties of Utrecht and Rastatt, Frederick I. had secured for his dynasty the proud title of king of Prussia, thus sowing the seed of an ambition whose harvest fields were Rossbach, Belle Alliance, Königgrätz and Sedan. The house of Savoy had fixed itself in Piedmont, around which it was destined to group the rest of the peninsula under the aegis of a united Italy. Austria, through the grant of the Spanish Netherlands, was placed at the threshold of France; upon the House of Hapsburg rested the

obligation to defend the lower Rhine region against whatever infectious evil the festering Bourbon monarchy might disseminate. England had secured the key to the Mediterranean and the gateway to French Canada, and had assured to herself a line of Protestant princes. By the death of Queen Anne in 1714 this assurance became a reality through the accession to the British throne of a minor German sovereign, George William, Elector of Hanover. The historian of the eighteenth century will find in the development and interaction of the events here compassed in a single paragraph, many of the most interesting problems of the age. Of these, not the least important is the dynastic revolution just mentioned. It is this change, together with certain of its consequences, which has been chosen as the subject of the present study. The elevation of a German prince to the throne of England gave rise to a complex of political interests and antagonisms without parallel in history. On the one hand, the electorate of Hanover was bound to the Imperial House of Hapsburg by the constitution of the German Empire. On the other, its geographical situation made its every move a matter of the highest import to its most powerful neighbor and Austria's rival, the newly created kingdom of Prussia. Furthermore, the Elector's accession to the English throne involved his state in the fortunes of a power whose policy could be controlled by neither Hanover, Prussia nor the German Empire. Add to these complications the fact that England was entering upon a second Hundred Years' War with France and it at once becomes obvious that a history of Hanoverian-Prussian relations may furnish a vantage point from which to study European history at the close of the eighteenth century.

Geographical situation is a matter of so much import-

ance in determining national policy that it requires more than a passing notice in any treatment of the relations between two powers. The problems of Prussian statesmen in the eighteenth century were essentially modified, if not created, by the fact that her lands straggled a five days' journey across that territorial wilderness known as the Holy Roman Empire of the German People. The Prussia of Frederick the Great, to apply Parkman's brilliant words on France in America, had two heads, one on the bleak shores of the Baltic, the other amid the vineclad hills of Meuse. On the Vistula it faced the Empire of the Romanoffs, on the Rhine it was in the shadow of the tottering Bourbon monarchy. Its continuity was broken by the interposed territory of a dozen petty powers among which it wandered in uncertain length across the map, here broad and clear, there dispersed and indistinct, again lost in a congeries of ecclesiastical states. Such territorial disintegration not only created administrative difficulties which were in themselves a problem for the statesmen of Prussia, but it exposed the nation on two widely separated frontiers to dangers from enemies as powerful as Russia and France. Furthermore Prussia's own peace and quiet were conditioned upon the independence and neutrality of the minor powers enclaved within her limits; the difficulties of her leadership where there was no subordination would become almost insuperable if any of these states should attempt a policy hostile to her or should fall into the hands of her enemies.

In the very heart of the Prussian territory lay the German states of the king of England, vying with Saxony and Prussia in power and influence in northern Germany. Their uncertain length from Hamburg on the north to Göttingen on the south cut Brandenburg off

from Cleves and the Mark; their eastern boundary was at the gates of Magdeburg, their western at the walls of Minden. On the throne of Hanover were the descendants of Henry the Lion, men who had once thought to rival the House of Hohenzollern in the struggle for the leadership of Protestant North Germany. The elevation of the Guelfs to the throne of Great Britain had ended that dream, but the change had created for Prussia dangers far more serious than dynastic rivalry. Whether for good or ill, Hanover, and with it Prussia, must now reckon with the enemies of England on the continent. Justly or unjustly, any great power at war with Great Britain would find it convenient to treat Hanover as an English continental possession, and this policy by very reason of the geographical situation just described, Prussia could not regard with indifference. It was such a view of the relations between Hanover and England that France most naturally adopted and for which she found plausible grounds in the attempt of the first two Georges to direct English policy from the standpoint of Hanoverian interests. Nor was the divergence of policy between Hanover and England during the earlier years of the reign of George III. sufficient to prevent France from regarding Hanover as a convenient point of attack in her great struggle with an insular power whose navy rendered her inaccessible. Should Prussia at any time during the great wars between these powers desire to remain neutral, and to make secure her neutrality by protecting Hanover from invasion, she would have to stand between the English sovereign and his German domains, while on the other hand she guarded them against French hostility. Such a situation would make Prussian-Hanoverian relations of central interest in Prussian history.

The eighty years before the treaty of Basel, with which this study begins, furnish so many illustrations of the clashing or combining of the interests mentioned above that in selecting the years between 1795 and 1803 we are not creating a period unrelated to the previous history of Prussia and Hanover or unconnected with their later development; 1795 does not begin, nor does 1803 end, Prussian-Hanoverian relations. Possibly an illustration or two drawn from the reign of Frederick the Great may help us to understand how easily Prussia's interest in Hanover might lead to negotiations of the widest import.

It will be recalled that in the struggles of the first half of the eighteenth century England had been directed by the first two Hanoverian sovereigns into the road which led to an alliance with Austria, and to the granting of subsidies to the smaller powers of north Germany in return for soldiers with which to fight France or defend Hanover. A divergence of purposes had gradually weakened the Anglo-Austrian alliance. Maria Theresa was absorbed in projects for the recovery of Silesia, a matter in which England, with a commercial and colonial empire at stake, manifested such small interest as to rouse the liveliest dissatisfaction on the part of the Empress-Queen. This was the diplomatic situation when in 1754 the opening gun of a great world struggle was fired in the woods of western Pennsylvania. England and France in America had begun what proved to be the decisive war in their century of conflict. George II., alarmed for his Electorate, again sought by subsidies and by a renewal of the Austrian alliance to make England, as Pitt's brother-in-law, Temple, expressed it, an insurance office to Hanover. The negotiations with Austria were, however, balked by Maria Theresa's insistence that Prussia be named as one

of the objects of the allies' hostile intentions. The failure of these negotiations left England at the opening of the decisive struggle without an ally. The one hopeful phase of the situation was that in the solicitude of King George for Hanover's safety, his English and Hanoverian advisers had an interest strong enough to lead their testy, narrow-minded master to an *approchement* with his hated nephew, Frederick II. of Prussia. A hint from the Duchess of Brunswick-Wolfenbüttel, a sister of Frederick, who was then seeking to marry one of her daughters to the future George III., apprised Münchhausen of George's mellow mood. This able Hanoverian minister ventured to ask on behalf of his Electorate and its sovereign the good offices of the Duke and Duchess of Brunswick-Wolfenbüttel with Frederick in behalf of the neutrality of Hanover.¹ The Prussian monarch was quick to follow the lead thus opened, and negotiations were begun which led ultimately to an English-Prussian alliance. Austria had already taken up the plan of a French alliance so long urged by Kaunitz, and the news of England's move served to hasten that "Diplomatic Revolution" which made France and Austria allies after two centuries of conflict. The complexity and world-extent of the interests involved in the French-English duel for empire is nowhere better illustrated than in these two years (1754-1756), when a volley from the muskets of Washington's Virginians gave the signal to renew the struggle, while the negotiations begun by the King of England on behalf of Hanover's neutrality were "the germ of an alliance which was to shake the world."²

¹ Münchhausen's letter is in *Politische Correspondenz Friedrich II.*, vol. xi, pp. 246, 247.

² Ward, *Great Britain and Hanover: Some Aspects of the Personal Union*, Oxford, 1899, pp. 171-181. See also R. Waddington, *La Guerre de Sept Ans: Les Débuts*, chs. iv and v.

The unity of Hanoverian-Prussian interests, which was realized whenever the Electorate was threatened by some European enemy of England, came to the surface again in 1778. To Frederick's alarm at the Austrian aggression in Bavaria were added the fears produced by the news that France had concluded an alliance with England's rebellious American colonies. The Prussian king was naturally apprehensive that France might seek to fight America's battles in the woods of Germany. To protect the region thus threatened Frederick proposed the formation of a corps of defense composed of Prussian, Hanoverian and Brunswick troops partially supported by English subsidies. The fate of the plan, like that of a later Demarcation Army, hung on the decision of the Hanoverian government, and its discussion introduces us to the name of Hardenberg,—the father, Hanover's field marshal, the son, of whom we shall hear more in connection with the later Demarcation Army, already high in the councils of his native state.¹ In 1784 Frederick was again obliged to arouse north Germany against the efforts of Austria to increase her power at the expense of Bavaria. The government of Hanover was among the first to which he broached his plan of a Fürstenbund. It was the influence of Hardenberg exerted through the Duke of York which brought his native state to view with favor the necessary military measures,² and in the final negotiations it was a Hanoverian minister who framed the articles which leagued north Germany against Hapsburg aggression. These scattered instances of Hanoverian-Prussian relations in the years since 1714 show, that when we take up their

¹ Ranke, *Denkwürdigkeiten Hardenbergs*, i, 48 ff.

² *Ibid.*, i, p. 76.

history at the close of the eighteenth century, we are simply selecting a few years in which the general course of events in Europe made particularly interesting a situation which in its entirety still awaits adequate historical treatment.

The eight years between 1795 and 1803 possess a certain unity. They are the essential years in the history of Prussia's attempt to maintain neutrality amid the Titanic struggles of the rest of Europe against revolutionary France. In each stage of the development and decline of this Prussian neutrality system, Hanover played an important role, and at each stage its relations with Prussia became a center for the conflict of interests other than those of the two states primarily concerned; at no time are the Prussian diplomats left undisturbed to adjust with the ministry in Hanover their common interests and antagonisms. Thus it is that the history of their relations runs its course through eight years of French, Austrian, English and Russian moves and counter-moves.

Before entering upon the complexities of the period, let us try to see what was that phase of Prussian policy which involved Hanover and made the attitude of Kings Frederick William II. and Frederick William III. and their ministers, Haugwitz and Hardenberg, toward the Electorate the key to much of their activity in these years. The first efforts of Prussia toward neutrality were the result of the embarrassing position in which she found herself in 1794 as a consequence, in part, of her having joined the First Coalition in the war against France. Prussia's internal weakness and inability to realize on her resources, her endangered interests in Poland and the withdrawal of the English subsidies brought her to the special peace of Basel. In this peace

Hardenberg, a Hanoverian in the service of Prussia, served his native and his adopted state by getting the French government to include the German lands of the king of England behind a demarcation line which neutralized that part of Germany east of the Rhine and north of the Main. The persistence of his Hanoverian ministers secured from George III. an acquiescence in this neutrality. By that act Hanover renounced the policy of England, Austria and the Empire, and took her place in a nascent north Germany hegemony under Prussian leadership. But the neutrality arranged at Basel proved to be insufficient to protect the area included behind the first demarcation line, and the policy of Haugwitz passed to the second stage. In 1796 a new demarcation line was negotiated, an army of Prussian, Hanoverian and Brunswick troops was organized to defend it, and a congress of the states protected was called to provide for the support of the Army of Observation. In each phase of the second stage Hanover was a most important factor. The success of the positive side of the system of neutrality, that side which was turned toward the minor north German powers and involved their co-operation with Prussia for mutual defense, was conditioned by the attitude of George III. and his Hanoverian ministry. In this period the relations between the two states become consequently a broader but not a less troubled stream.

During the years from 1796 to 1800 there was a change of rulers in Prussia but no change in policy. Frederick William III., peace-loving to the point of weakness, clung to the system of neutrality under circumstances which, it is safe to say, would have moved as vigorous and able a sovereign as Frederick William II. to active measures. Even Count Haugwitz, the founder

of the system, urged his young master to consider the alliances against France which were being urged upon him. But the King's unconquerable aversion to war, rather than any statesman-like conception of a neutrality policy with its hand on the hilt of the sheathed sword, kept Prussia from joining the Second Coalition. The limits of our theme and the lack of important events in which Hanover was a considerable factor, justify the brief space given to the years 1796 to 1800.

In 1800 Prussia for the first time in five years appeared upon the stage of European politics. Paul I. of Russia in his newly conceived hatred for England sought to cripple her and to testify his friendship for Napoleon by reviving the maritime principles which his mother, Empress Catherine, had formulated in 1780. To enforce them he organized a league which he either coaxed or compelled Sweden, Denmark and Prussia to join. This resulted in the most embarrassing complications for all participants. Prussia was forced to yield to Paul's demands that England be punished by a Prussian occupation of Hanover. By that act Prussia endorsed a contention she had long denied, namely, the French view that the German states of George III. were an English continental possession through whose seizure and exploitation the insular power might be affected. Thus Prussia abandoned the fundamental tenet of any neutrality system for north Germany, that is, the view that the policies and interests of Hanover and England were so widely separated that the former might be drawn into the Prussian hegemony and its neutrality defended regardless of England's continuance of the struggle against France. If the fundamental tenet of a north German neutral zone was denied by Prussia's military occupation of Hanover, the continuance of that occupa-

tion destroyed the fundamental condition of the policy Count Haugwitz had conceived, the confidence of the Hanoverians in Prussia's good intentions. The discussions of this period over the matter of indemnities for the territory ceded to France on the west bank of the Rhine and not the dangers that a French invasion of the Electorate would follow Prussian withdrawal, furnished the medium through which the Hanoverian ministry read Prussia's purposes in continuing the occupation. Should the future produce a crisis calling for prompt action and full co-operation on the part of Frederick William III. and the Hanoverian ministry it would find the vision of both befogged by the events of 1801.

Once away from the safe moorings of the six years just passed in review, the weak craft of Prussian statesmanship was rapidly swept into troubled waters. The crisis forecast above was at hand when in 1803 France and England grappled in the final struggle, and the undefended Electorate was again made the victim of its connection with the crown of England. Last scene of all, Prussia, in the face of a threatened French invasion of Hanover, abandons her position as the defender of the neutrality of north Germany and retires within her own boundaries. The unaided Electorate with its cumbrous and divided government, its antiquated means of defense and its shuffling, undecided leadership, was obliged to surrender at discretion to Napoleon's lieutenant, General Mortier. As 1801 was a prelude to 1803, so the humiliation of Prussia in permitting a French army to occupy Hanover in the heart of Prussian territory brings in its train the disasters of 1806. But the limits of the theme outlined in the preceding paragraphs forbid any ventures into this later and equally interesting field. The following chapters attempt the more modest task of

studying from the view-point of Prussia's relations to Hanover, the inception, development and renunciation of the Prussian neutrality system.

Having thus outlined the work in hand, it seems necessary to preface this study by a sketch of the Electorate of Hanover, presenting chiefly those events which illustrate its political conditions.

Braunschweig-Lüneburg, to designate more exactly what we shall hereafter call Hanover, was an electoral province of the German Empire. In 1795 its area was about equal to that of Massachusetts and Connecticut and it had a population of almost a million.¹ Roughly speaking, it included the region between the Weser and the Elbe to about one hundred and twenty-five miles from their outlets. Irrespective of size or population, Hanover's location made it the key to North Germany. A strong power once in possession of Hanover could easily threaten the commerce of Hamburg, Bremen and Lübeck, through whose ports went part of the food supplies of the northern nations and of England and France. The great commercial routes to Leipzig and southeastern Europe as well as those to Frankfort and the Rhine region were either within or near Hanover's borders. No nation could safely occupy Holland as long as its enemy had an army on Hanoverian soil. Thus in 1795 France had a double reason for agreeing to the

¹ Ernst V. Meier, *Hannoversche Verfassungs- und Verwaltungsgeschichte*, i, p. 100, gives 750,000; Thimme, *Innere Zustände Hannovers, etc.*, vol. i, p. 1, gives 900,000.

An article in *The Porcupine* (London daily), Feb. 14, 1801, puts the population at 1,062,500 (but counts Bremen as one of chief cities with 28,000 inhabitants). The annual revenue is placed at £820,000, military charges £230,000, general expenses £552,000. The debt is given as about £5,500,000. The article then briefly summarizes the resources and industries of the Electorate.

Prussian neutrality for Hanover. France could thus keep open its trade with the Hanseatic cities and be able to prevent the gathering of the Emigrant and Dutch corps behind the Weser. Then perhaps deeper than these two motives was the desire to hamper England's movements by neutralizing and later seizing Hanover, which, as has been indicated, the French chose to treat as an English continental possession.

To understand this peculiar relation between England and Hanover, we need to go back a little in English history.¹ In 1714 George William the Second, Elector of Hanover, had left his little German state to become King George the First of England. Both he and his son, George the Second, who was twenty-seven years old when he became Prince of Wales, returned frequently to visit their loyal Hanoverian subjects, but George III. had never set foot in his Electoral possessions. His interest in Hanover, however, had prevented any noticeable break in the policy pursued by his predecessors in governing Hanover. This Personal Union, which lasted from 1715 till 1837,² and the relation of the English king to his electoral possessions will become clearer if we review briefly the instruments by which they were established.

From the English side the Personal Union was shaped

¹The history of the accession of the Hanoverian dynasty to the English throne has never received full and special treatment. The best material is in Michael, *Gesch. Englands im Achtzehnten Jahrhundert*, and Salomon, *Gesch. des letzten Ministeriums Königin Annas v. England* (Gotha, 1894). The fourth volume of Koecher's *Gesch. Hannover u. Braunschweig* in the *Pub. aus den preuss. Archiven* will deal with the question.

²The Personal Union lasted until the accession of Victoria, who, according to the Salic law prevailing in Hanover, could not succeed to the German possessions of her uncle, William IV. They passed to her uncle Ernst Augustus, fourth son of George III.

by the Act of Settlement, 1701, which was framed with specific reference to such a contingency as arose when the Guelph dynasty came to the throne with George the First. On the Hanoverian side the relations between the absent ruler and his hereditary estates were regulated by an ordinance issued by George I. on his leaving Hanover in 1714.

The provisions of the Act of Settlement¹ which interest us are those limiting the succession to the Electress Sophia and her descendants, if Protestants; and providing that, in the event of the succession of a foreign-born sovereign, the nation should not be engaged without the consent of Parliament in war for the defence of any dominions or territories not belonging to the crown of England; and that all persons born of foreign parents out of the United Kingdom or Ireland, whether or not such persons had been naturalized, were excluded from the Privy Council, from Parliament, from any civil or military office of trust, and from the benefit of any grant of lands. The first provision was satisfied by George I. following the Lutheran confession as had his forefathers. The second was intended as a club in the hands of Parliament to enable it to direct all treaty-making to the interest of England. The clause was, however, non-operative during the reign of the first two Georges. The third clause cited above was most strictly enforced, as Hanoverians were carefully kept from obtaining English appointments, while on the other hand it is interesting to note there is but one instance on record where an Englishman was appointed to Hanoverian service. A fourth clause in the Act of Settlement was repealed

¹ 12 Wm. III, 2. Cf. Pickering's *Statutes-at-large*, vol. i. Discussed clearly by Hallam.

almost on the accession of the Hanoverians, that is, the provision that no future sovereign should go out of the dominions of England, Scotland and Ireland without the consent of Parliament.¹ Both the first two Georges visited Hanover whenever they chose despite the outcry against it in England.

Before leaving Hanover in 1714, George the First issued an ordinance regulating the government of the Electorate in his absence. By this "*règlement*," military matters in general were reserved by him for his own decision. In foreign affairs the ministry² in Hanover or the Regency as it was called, was to conduct matters of ordinary interest in the name of the Elector. Hanoverian envoys at foreign courts were to send two reports—one to London and one to Hanover. The foreign relations of the two powers were kept technically separate, though we shall later find English and Hanoverian ministers working hand and glove for objects of mutual advantage. Further, the knowledge of England's king concerning affairs at European courts—particularly at Berlin and Vienna and later at St. Petersburg—must have been clearer and surer with the reports of such men as the Hanoverian envoys, Ompteda, Hardenberg and Münster to supplement the observations of the English ambassadors.

If in foreign affairs the emergency was pressing, the ministry at Hanover was to decide without waiting for the king's approval even in matters of peace and war. The ministry could call the provincial states and propose

¹ On this whole paragraph see A. W. Ward, *Great Britain and Hanover*, chap. ii.

² The ministry, some five or six in number, were chosen from the ruling aristocracy in Hanover.

legislation to them. It could also confirm sentences, transmitting the facts only when it seemed possible the king might mitigate the sentence. The ministry's appointive powers were strictly limited as was its power to appropriate money without the king's consent. Meier, the able constitutional historian of Hanover, has well pointed out that in the indefiniteness of the clause as to the ministry's acting alone in matters of importance, lay the possibility for the king and his advising minister in London and the ministry in Hanover to shirk responsibility for the disasters of the period before us. Telegraphs and cables, mail-ship lines and railroads had not then become the tools of statesmen. Sail-boats and postmen could bring the *rescripts* of George the Third to Hanover in about the time they might now reach Hanover from New York.

Much more has been written about a feature of the government which was not mentioned in this almost forgotten *ordinance* of 1714, than about the ordinance itself: I refer to the residence at London of one member of the Hanoverian ministry. Through this member, who was practically a prime minister directing his colleagues from London, the king learned of Hanoverian affairs. The royal instructions, or *rescripts* as they were called, bear the countersignature of the minister "next to the royal person." Englishmen, always jealous of foreign influences, were at that day particularly ready to see in the foreign policies of the first two Georges nothing but Hanoverian policy transferred to a wider sphere. Much ink and more words have been wasted about the supposed influence over English kings of the members of the German Chancery,¹ popularly known as "the Hanoverian

¹ "Deutsche Kanzlei."

Junta.”¹ The union, however, was a purely personal one which in outward forms at least, did not go further than the subordination to a common sovereign and the use of the same coat of arms. Despite the looseness of the bond which bound them, the existence of the Personal Union was a fact which could not be without its effect on both members. The very nominal character of this connection and the disadvantages that accrued to Hanover as the result of its elector’s absence, should not blind the investigator to such interesting topics as the cultural interaction of the two states which found its visible expression in the newly founded university at Göttingen whose establishment was, in its turn, but a manifestation of the increased prestige which the connection with England had brought to Hanover.

The great central fact remains after even the most painstaking efforts to compass the less tangible lines of connection just suggested, that in matters of national interest England went its way almost unmoved by considerations as to the German possessions of its sovereign while, on the other hand, the Hanoverian ministry was not controlled by Walpole and Pitt.² Instances might

¹ Adolphus W. Ward in the Ford Lectures at Oxford in 1899, gave the matter its first special investigation in anything like a scientific way. The lectures published as *Great Britain and Hanover: Some Aspects of the Personal Union*, Oxford, 1899, if not completely convincing, are at least very suggestive and worthy of careful reading.

² In Appendix B at the end of this chapter will be found the opinion of the Russian ambassador, Simon Woronzow, on the completeness of this separation during the period covered by the following chapters. The chapters on the Prussian occupation of Hanover in 1801 show English statesmen interceding for the Electorate. The charge that Pitt controlled the electoral vote of Hanover at Regensburg was a favorite one with the pamphleteers of this period. See for example, *Niedersachsen nebst den Hansestädten, Hamburg, Bremen und Lübeck nach ihren neuern politischen Verhältnissen* (Hamburg, 1801).

be multiplied to show how desirous the English were to keep the separation as complete as that provided in the Act of Settlement.¹ The member of the Hanoverian ministry resident in London was regarded as the ambassador of Hanover at St. James. It was indeed proposed at first that the English prime minister should be present when he interviewed the King, even about matters concerning Hanover's internal affairs, but this was so utterly impracticable, particularly as the business was conducted in German, an unknown tongue to British statesmen, that the plan was soon abandoned. It is not at all uncommon to find Hanoverian ambassadors filling their reports with surmises as to the significance of certain actions of the British representatives, of whose plans and purposes they knew as little as they did of those of the ambassadors of Russia or France. I remember but one, possibly two, instances in all the ministerial correspondence of eight years when the cabinet at Hanover ventured to suggest to their colleague in London that he should seek to learn from the king something about the English plans. Even then their timidity was touching. Poor von Lenthe² in his turn was complaining in the very crisis when Hanover's fate hung on the turn given to matters at St. James, that it was useless for him to seek information of the English Cabinet as to their

¹ See Ompteda, *Die Ueberwältigung Hannovers durch die Franzosen*, pp. 4-11. The two armies though under the nominal command of the same sovereign were entirely separate, and England made subsidy treaties with Hanover as it did with other German states. Sometimes it sought the aid of the other German states first. Thus it happened that in the American war for independence, Hessians and not Hanoverians opposed the patriots. Hassell (*Das Kurfürstenthum Hannover, etc.*, p. 67) says that Hanover refused to allow Hessians intended for America to march through the Electorate, and that the Americans bought arms and cavalry equipment of Hanoverian factors.

² Hanoverian minister in London in 1803.

plans. The cold, hard egoism with which England yielded up Hanover to the disaster which its connection with England brought upon it in 1801, and again in 1803, would have aroused indignation in any but a people as loyal to their reigning house as were the Hanoverians throughout this long period.¹

In the eighty years since the Elector had given over the direct government into ~~ministerial hands~~, Hanover had come to be ruled by a close corporation of the old nobility. While Prussia went forward under the enlightened despotism of Frederick the Great, Hanover decayed in economic and political vigor under the aristocratic rule of the privileged class. The leading governmental places were regarded almost as matters of inheritance in the old families of Hanover. Corruption and nepotism were rife. Reforms were demanded, but the demands were hushed up. True, the government was mild, but that was because it feared opposition and shunned publicity more than all else. Thus it was that by 1795 the government had lost all real vigor and power of initiative. It needed but the shock of really aggressive action on the part of some hostile neighbor and the whole structure would come tumbling down around the ears of its dozing occupants.²

¹ The French occupation of 1803 called forth a flood of pamphlets, many on the connection with the English and its effect upon Hanover. The pamphlet of Doctor Jur. Seumnich and the replies thereto are devoted to the effects of the Personal Union. Most of them are a weariness to the flesh. All of them are well reviewed in *Jenäische Allgemeine Zeitung*, Feb.-May., 1806, Nos. 27-34 inc., and Nos. 57 and 58.

² The best summary of conditions in Hanover in 1795 is to be found in Max Lehmann's *Scharnhorst*, vol. i, 81-87. The particularism of the provinces into which Hanover was divided is well brought out by Spittler in the Introduction to his *Geschichte des Fürstenthums Hannover*. After describing the simple method by which the grant of a tax was obtained in George III.'s English domains he continues, "aber

Following the tendency in every government, the aristocratic government of the Hanoverian nobility put the actual work of governing more and more into the hands of a bureaucracy of secretaries and subordinates, who were generally men with legal training. These subordinates were not mere transcribers of minutes and keepers of books, but exercised a positive influence on the course of affairs. Those holding the higher secretarial positions, for instance, prepared and presented to the easy-going and negligent ministry elaborate reports and recommendations as to the departments with which they were connected. If the secretaries were men of force and industry and learning, the higher officials found it easier to follow their opinion than to work over the field and obtain an independent view. Thus the real governors were hidden from view, and, most fatal of all, did not bear the responsibility for measures and conditions they really created. In the period about 1795 the results of the absence of the Elector were most apparent. There was no one guiding, responsible, never-resting force keeping all parts up to their best efficiency and lopping off the useless members. The ministry of the day, the Regency as it was generally called, was a comfortable, easy-going group of elderly aristocrats whose conception of the good of

wenn eben derselbe von seinen sämmtlichen teutschen Unterthanen, welche ungefähr höchstens den zehnten Theil seiner Insulaner ausmachen, eine allgemeine neue Steuer verlangt, so muss mit sechs verschiedenen Parlementern vorher gehandelt werden und jedes verschiedene Parlament besteht aus mehreren Classen von Landständen gleichwichtiger Rechte und gleichversicherten Privilegien, welche alle, so sehr sonst ihre Vorzüge verschieden sind, um ihre freie Einwilligung hierüber befragt werden müssen; auch will am Ende das Volk im Lande Hadeln noch besonders gebeten sein." Quoted in the brochure, *Müssen Wir Nicht von England Getrennt werden* (Germanien, 1803).

the state was interchangeable with their view of the interests of the class they represented.¹ Their bureaucratic, bourgeois under-secretaries were men to whom public opinion attributed an even more rigid insistence on privilege and place. Naturally enough such conditions, while they made the rule of the aristocracy tolerable, did not make it popular, and the doctrines of the French Revolution found fertile soil among the radicals who were already conscious of the political lethargy that had crept over Hanover in the last fifty years.

The personal character of the Hanoverian statesman of this period does not need to hold our attention long. Count von Münster, the Hanoverian minister to the court at St. Petersburg, and Ludwig von Ompteda, the representative at Berlin, deserve especial mention as men of clear vision and undoubted ability as diplomats.² The names of Baron von Lenthe, the head of the London Chancery in the later years of our period, of Count von Wallmoden-Gimborn, natural son of George II. and commander of the Hanoverian army, and of Geheimersecretär Rudloff, will be of interest to any one who works over the pamphlet literature called out

¹ "Es (Regency) besteht ganz aus adelichen Mitgliedern, und macht in der Abwesenheit des Churfürsten den eigentlichen Souverain des Landes aus . . . Als Mitglieder der privilegirten Kaste, suchen sie deren Bestes hauptsächlich zu befördern und nehmen darnach den Maasstab des öffentlichen Wohls ab." Dr. Jur. Seumnich, *Ueber die Verbindung des Churfürstenthums Hannover mit England, etc.* (Hamburg, 1803), 26-27. It would seem as one looks through the pamphlets called forth by Dr. Seumnich's brochure that it was this sentence rather than the disaster of the French invasion which precipitated the lusty "Federkrieg" of 1803.

² On Münster's later career (1809, 1815), see the article by Prof. Ulmann in the *Historische Zeitschrift*, 1868, 338 . . . Ompteda's career is sketched by his son in the introduction to *Politischer Nachlass des hannoverschen Staats- und Cabinetministers, Ludwig von Ompteda, aus den Jahren 1804 bis 1833*. (Jena, 1869, 3 vols.)

by the disasters of 1803. The actions of these men in connection with the events between 1795 and 1803 will sufficiently bespeak their character and ability. One of them, however, may well be described here as the type of the bureaucrat who under the old régime might attain to power in a government so lacking in virility. The dominance in Hanoverian councils which public opinion attributed to such a man as Wilhelm Augustus Rudloff, for it is to him I refer, tells one much of the government of the Electorate at the close of the eighteenth century.

This man who passed in the public opinion of the day as the real power in the government, "le roi d'Hanovre," "der kleine Kaunitz," as he was popularly called, was officially only a *Geheimersecretär*. Through real ability, of a pedantic sort perhaps, and immense capacity for work even of the most detailed kind, he had assumed the directing influence in the government. From the drafting of the most important state papers and the execution of the weightiest commissions, to the copying and storing of the documents in the governmental archives, Rudloff was the power that got things done, and a man who did things was the crying necessity in the government of the *ancien régime*.

Rudloff obtained his doctorate at Göttingen in 1767, when twenty years of age. After a brief experience as a lecturer at the University of Bützow, he was called to Hanover as legal adviser to the government. Five years later he left the legal department for the state department (*Geheime Kanzlei*). From 1786 on he was practically secretary for foreign and imperial affairs, as well as acting-secretary of the ministry, keeping its minutes and drafting all its reports to the minister in London and the instructions to the ministers at foreign courts. On

many occasions his reports were called for, and on all occasions he was present to see that the ministry transacted the necessary business in the prescribed way. Such an active, able and forceful person no doubt put the stamp of his personality on much of the ministerial policy during his term. Rudloff then must take his fair share of the blame that always attaches to persons trying to work an unworkable system. Trained like his colleagues and his superiors in the formal, technical law of the cumbrous Imperial system, he saw nothing beyond it. They were all absorbed in routine work and had no eyes for the new conditions in the Germany of their day. Rudloff's limitations were those of the class he typified—the legally trained, somewhat pedantic bureaucrat, into whose hands had fallen most of the governmental business of the German states of the eighteenth century.¹

Really able and progressive men were hard to hold in the Hanoverian service. ~~The absence of the sovereign narrowed the field of activity;~~ the main object was simply to keep the government going.² There was no such thing as a definite, self-conscious Hanoverian policy. The absent elector's best energies and real interests were given to the English people. Capable Hanoverian officials working without the direct supervision of the sovereign found advancement too slow for a progressive and ambitious man. Promotion must come through the favor of an aristocratic ministry drawn from the old

¹ E. Brandes, *Betrachtungen über den Zeitgeist, etc.*, 14, 15 (Hanover, 1808). Also Meier, *Hannoversche Verfassungs- und Verwaltungsgeschichte*. (Leipzig, 1899.) As to the powers of the secretaries in Hanover, see the pamphlet. "*Ueber d. hannoverischen Adel u. die Secretärien.*"

² The evils of the Elector's absence were frankly pointed out to King George by Hardenberg in his resignation from the Hanoverian service in 1781. Ranke, *Hardenberg* i, p. 56.

nobility, and it could not be expected that they would push into power a class who were not "hoffähig."

By the side of this moribund state was the more aggressive Prussia of Frederick the Great to which the interests of the Germans of the larger patriotism and deeper ambition were turning.¹ Baron vom Stein, well and favorably known in Hanover through his service in the Westphalian states of Prussia, was offered a position in the Hanoverian ministry (1802), but he preferred the service of Frederick the Great,² and this despite the fact that his family ties bound him closely to the ruling aristocracy of Hanover.³ He saw no future in this "German China" as he called Hanover. Scharnhorst, whose military reforms make him share with Stein the title of founder of modern Prussia, discouraged at the failure of his efforts to reform the Hanoverian army, resigned his commission in January, 1801, and entered the Prussian service. Hardenberg, the successor of Stein and the executor of his reforms, was born and raised a Hanoverian and devoted the earlier years of his life to his country's service. But convinced after long waiting, even at the court of George III. in London, that the road to higher places was too long and uncertain, he left the Hanover-

¹ For a masterly review of conditions in Prussia in 1800 (ca.), see the essay by Max Lehmann, *Das alte Preussen*, in the *Hist. Zeit.*, vol. xc, 385 ff.

² Lehmann, *Stein*, vol. i, 246. Pertz, ii, 194-195. Pertz points out that several native Hanoverians of real ability were kept in second rate offices, *e. g.*, Rehberg, Brandes, Rumann, Hoppenstedt, Rose. The commander of the Russian forces at Eylau and Friedland, and the leader of the party that murdered Czar Paul, was a Hanoverian—General Bennigsen. Cf. *Memoirs of Prince Adam Czartoryski*, i, 239, 240, 248. London, 1888.

³ Two members of the Hanoverian ministry, Steinberg and Kielmansegg were brothers-in-law of Stein, and his father-in-law was Count Wallmoden-Gimborn.

ian state to pass by way of Brunswick into the service of Prussia. Scharnhorst, Hardenburg, Stein¹—to have lost such a galaxy of genius is the greatest reproach utterable against the ancient régime in Hanover. To have drawn them into the Prussian service is the greatest tribute that can be paid to the state of Frederick the Great.²

A poor boat and indifferent seamanship may navigate peaceful waters. So, had peace been granted it, "the paternal government" of Hanover might have gone on many years in safety. But troublous days were ahead of it, for the waves of the French Revolution were dashing against and dashing down the old order in the old Europe.

The South German states were not the only members of the empire affected by the doctrines and events of the French Revolution. Hanover, with its mild government and more than English tolerance of free speech and free press, was touched by a wave of sympathy for the movement which seemed to promise so much.³ The students of Göttingen were up to the mark of student enthusiasm for new doctrines and stirring reforms, and still more stable writers and thinkers rejoiced at the advance of republicanism in France.⁴

¹ Beyme, one of Frederick William III.'s closest advisers, was also a Hanoverian. Bailleu, in the *Deutsche Rundschau*, xx, 271. The writer in the *Allgemeine Deutsche Biographie* disagrees.

² For a most interesting list of the foreigners who were influential in Prussia during the neutrality period, see Seeley's *Life of Stein*, part iii, chap. ii. It is interesting to note how many of the public men mentioned in this study were students in Göttingen during the period when Pütter and Schlözer were lecturing.

³ On the effect of the French Revolution in Hanover see Weiland, *Festrede im Namen d. Georg. Augustus Universität, etc.*, (Göttingen, 1889.) E. Brandes, *Ueber einige bisherige Folgen d. franzos. Revolution vorzüglich in Deutschland*, second ed. (1792), also Brandes, *Ueber den Zeitgeist, etc.*, pp. 180 et seq. (Hanover, 1808).

⁴ On lack of real patriotism in Germany at this time see Pertz, *Stein*, i, p. 87, and E. Brandes, *op. cit.*

But all this new thought, from the ebullitions of the students to the stimulating and reasonable articles of Prof. Schlözer, led to no overt action until the summer of 1792. It was then that, influenced perhaps by Custine's victories in South Germany, the opposition to certain oppressive taxes in the neighboring bishopric of Hildesheim seized the occasion to organize itself. The uprising spread to the adjoining Hanoverian principalities. The agitation against the unpopular tax in Calenberg, one of the six divisions of Hanover, was led by a certain von Berlepsch,¹ a school friend of Hardenberg,² who had himself led the local opposition to this tax. Von Berlepsch seems to have lacked good judgment. He sought to make out of the Diet of Calenberg a National Assembly, but only succeeded in getting himself called the "Calenberg Mirabeau." Only the mildness of the government³ prevented von Berlepsch from proving himself more than a rather able demagogue. His attempts to get the Calenberg Nation" to declare its neutrality in the struggle of its elector against France found no encouragement in the local diet. His appeal to the people resulted in his being ousted by George III. from the offices he held.⁴

Nevertheless, the period of unrest and disorder does not seem to have ended with the exit of von Berlepsch.

¹ Herr A. Wunsch, Göttingen, will shortly publish a study of von Berlepsch.

² See below for further evidence of their relations. Berlepsch's mother was a von Hardenberg.

³ "No government could be more mild, and an air of general content is spread over all the inhabitants." *The Porcupine* [a London daily], Feb. 14, 1801.

⁴ It is interesting to note that von Berlepsch appealed his case to the Reichs Kammergericht at Wetzlar and got a decision in his favor to which the Hanoverian Regency paid no attention.

Hanover in 1795 was regarded as a sort of revolutionary tinder-box.¹ It needed but a spark from an invading French army to start a conflagration dangerous to the peace and safety of its neighbors.² The real imminence of such a danger may well be doubted. We can safely go no farther than to say, like the *ancien régime* in France itself, the paternal and easy-going government had encouraged the circulation of political doctrines which, had there been real grievances and a less phlegmatic people than the lower Saxons,³ might have led to serious results under a demagogic leader like von Berlepsch.

The electorate of Hanover as such had not been a participant in the campaigns against the French. At Regensburg the ministry had been of the party of moderation. They deprecated any rash action of the empire in reply to the decisions of the National Assembly, and it was not until March, 1793, that a Hanoverian contingent joined the allied army. The loss of the Netherlands as the result of the campaign of 1792 threatened English and Hanoverian interests, and the cabinet and the elector bargained with the English to furnish some thirteen thousand mercenaries. This was about half of the Hanoverian army.

The difficulty the authorities found in filling out the

¹ Malmesburg writing in 1795 speaks of a "Great Jacobin party in Germany, particularly about Hamburg in Westphalia," *Diaries, etc.*, iii, 44. Reinhard, the French agent to the Hansa cities, sends some interesting reports to Paris on conditions in Hanover. See Wohlwill's summary in *Hist. Zeit.*, 1884, 410-411. Revolutionary tendencies are distinctly emphasized in these reports.

² These are the words put into the mouth of Hardenberg at Basel by Frederick William II.

³ On the "*Schwerfälligkeit*" of the Hanoverians of that day see Stein's letter in Pertz, i, 108 and note 29 to vol. i.

ranks of the regiments illustrates how little enthusiasm there was for military matters among the Lower Saxons. Volunteers were loath to enter the regular service, and attempts to recruit in Hanover were unsuccessful. Men, if they had the money, paid large sums for substitutes. If they were poor, they fled the country to escape the night raids of the recruiting officer. The ministry was obliged to transfer its efforts to the neighboring Imperial cities and ecclesiastical estates. Even after resorting to such subterfuges the promised contingent went forth two thousand men short. These difficulties make it plain why Hanover, when called on for its *Reichs-contingent*, preferred to pay a money subsidy.

The Hanoverians under the aged Field-Marshal Freytag were attached to the allied army under the young Duke of York. They took a most honorable part in the campaigns of 1793 and 1794, and the escape of the gallant General Hammerstein from the beleaguered Menin is one of the most brilliant and daring things in all military history. Scharnhorst, then a Hanoverian captain of artillery, received his baptism of fire in these campaigns and gained himself a place on the staff of Count Wallmoden-Gimborn who took command after the departure of the Duke of York.

March, 1795, saw the English and their mercenaries ensconced behind the line of the Ems—depleted in numbers and depressed in spirits. Before them was the victorious army of the French under Pichegru. The situation was critical. Would the Prussian troops hastening from Clerfaut's army on the Upper Rhine be in time to support Wallmoden? Fortunately the matter was not brought to a pitched battle, for the French, receiving word as to the negotiations at Basel, withdrew into Holland. To these negotiations at Basel we must next turn our attention.

CHAPTER I—APPENDIX A.

THE following list of Hanoverian ministers is taken from the table given in Meier's *Hannoversche Verfassungs- und Verwaltungsgeschichte*, 1680–1866, Vol. II, p. 638. The list in Meier covers the period 1680–1848, and the recurrence of family names until we have Alvensleben III, Busche V, Lenthe III, Hardenberg III, and Grote IV shows how the great families kept in power, generation after generation.

In the period covered by this monograph, we have as members of the cabinet in Hanover:

Graf Kielmansegg, Karl Rudolph August, 1779–1806. (Kammerpräsident from 1792–1806.)

Gotthelf Dieterich Ende, 1782–1798.

Ludwig Friederich Beulwitz, 1782–1796.

Christian Ludwig August Arnswaldt I, 1783–1806.

Georg August Steinberg II, 1792–1801.

Ernst Ludwig Julius Lenthe III, 1795–1805 (minister resident in London for his whole term).

Claus v. d. Decken, 1796–1823.

Georg Friedrich August v. d. Wense, 1801–1811.

Christian Ludwig Hake II, 1801–1818.

Otto Ulrich Grote IV, 1801–1808.

As has been mentioned, Dr. Rudloff was Wirklicher Geheimer Secretär and Archivarius. Dr. George H. Nieper was his assistant, and George August Best was secretary to the minister in London, von Lenthe.¹

From the *Staatskalendar* we learn that for the period

¹ See *Koeniglich. Grossbritannischen u. Kurfuerstlichen Braunschweig-Lueneberg. Staatskalendar* for 1795–1803.

1795-1803 Hanover's representatives at other courts were distributed as follows :

Vienna : Graf von Hardenberg and Herr v. Mühl.

Berlin : Julius v. Lenthe, with Carl Adolph v. Ompteda as Canzlei Auditor. Lenthe was succeeded in 1796 by Ludwig C. G. v. Ompteda, who acted until 1800 as von Reden, appointed in 1797, was otherwise employed, principally at the Congress of Rastatt.

Regensburg : Hanover's *Comitial Gesandter* was Dietrich Heinrich Ludwig von Ompteda.

Dresden : Von Bremer, with Ludwig C. G. v. Ompteda,¹ later at Berlin, as Canzlei Auditor. No reports of von Bremer's for the years 1795-1803 were to be found in the archives at Hanover. This is deeply to be regretted, as the relations between the two electorates of Saxony and Hanover appear to have been intimate.

Frankfort (for Mainz, Köln and Oberrhein) : Von Reden, 1794-1797, with Schwarzkopf as Canzlei-Secretär. On von Reden's appointment to the Congress of Rastatt and then to Berlin, Schwarzkopf became his successor.

Munich (for Kurpfalz) : Geheimer Legationsrat von Ompteda.

Netherlands : Geo. von Hinüber.

Anspach (for Franconia) : Herr Schegk—his name disappears in 1802.

Swabia, Würtemberg, Baden and Pfalz-Zweibrücken : Herr von Küchel.

Lower Saxon Circle : Von Reden from 1798 on.

APPENDIX B

Simon Woronzow, Russian ambassador in London, on the Separation of Hanover and Great Britain (in Wassil-schikof, *Les Razoumowsky*, II, pt. IV, pp. 242-245 of Brueckner's French edition).

SEPARATION OF HANOVER AND GREAT BRITAIN.

COUNT WORONZOW, LONDRES, }
le 17/28 juillet 1795.

" . . . Je ne manquerai pas sans doute d'après la réquisition de m—r le baron de Thugut de parler à Mylord Grenville sur l' inconcevable conduite du ministre de l'électeur d' Hanovre à la diète de Ratisbonne et

¹ Cf. *Irrfahrten u. Abenteuer eines Mittelstaatlichen Diplomaten: Ein Lebens- und Kulturbild aus den Zeiten um 1800* (Leipzig, Hirzel, 1894, pp. 435), by Ludwig v. Ompteda.

sur les fatales conséquences que cette étrange conduite a produites dans les affaires de l' Empire.¹ Mais je ne puis vous cacher, que mylord Grenville ne peut rien dans cette affaire. Il y a une ligne de démarcation inviolable, qui coupe toute interférence du ministre britannique dans toute affaire qui regarde l'électorat d'Hanovre. Le ministère hanovrien est si jaloux de son indépendance qu'il s'efforce en toute occasion de représenter à l'électeur-roi, que son pays en Allemagne ne doit jamais être influencé par le ministre britannique, comme si celui-ci pouvait en quelques affaires que ce soit, surtout en politique étrangère, faire quelque chose contre le gré ou à l'insu de son souverain. Cette appréhension de la régence de Hanovre est affectée et mise toujours en avant pour la ridicule gloriole de m—rs les ministres de la régence et pour satisfaire leurs vues et leurs intérêts privés. Ils sont pour le plupart attachés au système prussien. Ils ne voient ou ne veulent pas voir les perfides de la Prusse. Ils ne veulent pas comprendre, que l'agrandissement de la maison d'Autriche, de laquelle l'électorat étant séparé de toute la largeur d'Allemagne, n'a rien de dommageable pour lui et ne fait que raffermir son indépendance, mais qu'au contraire si l'Autriche est affaiblie, rien en Allemagne ne pourra résister à la rapacité prussienne, et l'électorat de Hanovre comme voisin et intermédiaire entre le duché de Magdeburg et les états prussiennes en Westphalia ne manquera pas de tomber un jour entre les mains rapaces de la cour de Berlin et finira par devenir province de l'ambitieuse monarchie prussienne.

“Ce qu'il y a plus malheureux dans la conduite actuelle de la régence de Hanovre et de son ministre à Ratisbonne, c'est qu'outre le mal qu'ils ont fait ils calomnient implicitement un des plus vertueux souverains, qui ait jamais honoré un trône: ils le calomnient, dis-je, parce que chez nous, en Espagne et partout ailleurs on croit, que jamais cette régence, qui n'a d'autre autorité que celle que lui veut bien confier l'électeur-roi son maître, n'aurait pu prendre sur elle d'agir de cette manière dans une affaire de telle importance si elle n'était autorisée pour cela par ce souverain, qui est le vrai maître et dont elle doit suivre toutes les volontés à l'égard de l'administration de l'état et de ses rapports politiques.

“S. M. le roi de la grande Bretagne est un prince ferme et vertueux. Vous pouvez être sûr, m—r le comte, qu'il est incapable d'agir autrement qu'avec la plus grande franchise. Le malheur est qu'il est indulgent à l'excès, que vertueux lui même, il croit au vertu d'une plus grande masse d'hommes qu'il n'y en a malheureusement et qu'il ne soupçonne pas, que ses ministres sont pour la plupart moins Hanovriens que Prussiens et illuminés. Un autre malheur est que mylord Grenville

¹ The conduct of Ompteda in voting for Prussian mediation, *cf.* Vivenot's *Sachsen-Teschen*, pp. 199, 397-99.

ne peut guère se mêler des affaires de l'électorat et qu'il n'y a pas ici de ministre hanovrien, auquel on pourrait s'adresser et faire parvenir a S. M. tout ce qu'il est important qu'elle sache. Je vois d'ici votre étonnement et je crois entendre, que vous me dites: Mais si on se plaignait à mylord Grenville au sujet de quelque conduite de la Saxe ou de la Bavière, est ce qu' il ne ferait pas un rapport au roi sur ces plaintes? Pourquoi donc refuserait-il de présenter a S. M. celles qu' on fait contre la régence de Hanovre et son ministre à Ratisbonne? Votre observation est très juste, m—r le comte, mais souvenez vous, que l'électeur palatin et celui de Saxe etc. ne sont pas jaloux de faire leurs affaires avec le ministre britannique et que la régence de Hanovre l'est très fort et qu'elle a eu ses bonnes raisons d'établir un système dont elle abuse si cruellement, et qu'enfin mylord Grenville se mîe d'autant moins de ces affaires qu'il craint de passer pour un ministre que veut empiéter sur un département dont lui et tous ses prédécesseurs ont été toujours écartés. A peine osera-t-il présenter les papiers contenant les plaintes, et certainement il pourra se permettre très peu d'observations verbales sur leur contenu. Malgré tout cela on doit être persuadé que S. M. le roi, qui est la probité même et qui est un allié constant et zélé, ne manquera pas, dès qu'il en sera informé de désavouer son coupable ministre à Ratisbonne. Je vois que ce monsieur est gouverné par le comte de Goertz. Il est en bonnes mains. J'ai connu ce comte de Goertz pendant cinq ans que je l'ai vu ministre de Prusse en Russie: c'est l'intrigant le plus fieffé et le plus impudent que la diplomatie prussienne ait employé dans les affaires. Il est tel que les Lucchesini et leur pareils sont des Catons et des Aristides en comparaison de lui . . . C'était lui l'instigateur de la neutralité armée.¹ Il était tout dévoué à la France et c'est le plus dangereux des intrigants."

¹ Cf. Bergbohm, *Die bewaffnete Neutralität* 1780-83 (Berlin, 1884), pp. 6-7.

CHAPTER II

THE TREATY OF BASEL AND THE BEGINNINGS OF PRUSSIAN NEUTRALITY

WHEN any power is without the force that would justify its taking the initiative and developing an independent policy, it must submit to the humble role of following that line of action which its neighbors or its allies indicate to it. It was such a position of subordination that the electorate of Hanover was obliged to occupy throughout the latter half of the eighteenth century. The transfer of its ruling house to the English throne had given the Electorate a certain prestige in Germany, particularly during the first half of the century, when the first two Georges were using their influence to determine English policy according to Hanoverian interests. But the countervailing disadvantages, some of which have been mentioned, had left Hanover in the equivocal position of a middle power in the hierarchy of German states. On the one side its advice was sought and its views considered by minor states like Brunswick, Hildesheim and Münster. On the other and above it in power and influence, stood Prussia, whose territory enclaved the leaderless Hanover on three sides. It was by virtue of the situation thus created that any attempt to treat Hanoverian policy leads ultimately to a study of Prussian policy. As a result of this fact the fate of the Electorate when threatened by the tide of French invasion in the spring of 1795 was determined by the course of its most

powerful neighbor, Prussia, rather than by any action, diplomatic or military, taken by the Hanoverian Regency. It is then towards Berlin that we must turn for an answer to the question, how Hanover is to be saved from a French invasion.

After some two years of crusading against the forces of revolutionary France, Frederick William II. of Prussia found himself in the fall of 1794 with a depleted treasury¹ and an army whose military fame had not been materially enhanced by the indecisive campaigns on the Rhine.² His allies, Russia, England and Austria, had developed interests foreign to the original purposes of the alliance.³ Particularly disquieting to the Prussian statesmen was the evident desire of Austria and Russia to push Prussia into the western complications in order that they might have a free hand in the matter of partitioning Poland.⁴ England, dissatisfied with the tactics of the Prussian general, Möllendorf, and unable to arrange for the control of the army he commanded, had refused in October, 1794, to continue the payment of subsidies,⁵ a serious matter when

¹ Malmesbury, *Diaries and Correspondence*, iii, 21, 31, 43.

² Cf. Häusser, *Deutsche Geschichte*, ii, 3, for the unsatisfactory results of a campaign in which Prussia had met with no striking reverses.

³ Ranke, *Denkwürdigkeiten des Staatskanzlers Fürsten von Hardenberg*, etc. [Berlin, 1877], vol. i, 253.

⁴ Smitt's *Suworow*, ii, 359. Quoted by Häusser, i, 321. See also Herrmann, *Gesch. d. russischen Staates*, *Ergänzungsband*, 509, 510.

⁵ The subsidy treaty with the English had been signed at the Hague, April 19, 1794. Gen. Moellendorf had been opposed to the treaty, and interpreted some its equivocal phrases to suit himself. This so disgusted Pitt that he authorized Lord Malmesbury to discontinue the payment of subsidies, Oct. 11, 1794. Moellendorf's part in the preliminaries of the treaty of Basel illustrates a remark of the day that Prussia was not so much a country with an army as an army with a country. For a copy of the subsidy treaty with the English, see Martens, *Recueil*, etc., v, 283. For an account of the negotiations, quarrels and abrogation, see

the exhausted condition of Prussia's treasury is considered. I say the exhaustion of the treasury, for it seems, when viewed in the light of the tribute money which Prussia was able to pay after Jena, that it was not so much a bankruptcy of resources¹ as it was a bankruptcy of the statesmanship necessary to make the resources available² which caused contemporary writers to explain the treaty of Basel by Prussia's financial weakness.³ The importance of Prussia's financial condition in 1794-1795 is a derived importance. Its significance lies in its conjunction with the difficulties created for Prussia by Catherine of Russia's designs on Poland. So tremendous is the significance which the wars against revolutionary France attained later that it is difficult for us to comprehend how, in the years between 1792 and 1795, European statesmen could have been concerned with any other in-

Malmesbury's despatches in the *Eng. Rec. Office, Prussia F. O.*, Nos. 31-33. The material in Malmesbury, *Diaries and Correspondence*, iii, 1-148, is drawn from these archives. For the attitude of the Prussian army, see Kaulek, *Papiers de Barthélemy*, v, 114, and Ranke, *Hardenberg*, i, 258.

¹ Lord Malmesbury writes Oct. 19, 1794, "Germany (is) vastly rich—equal in men and money to France," *Diaries and Correspondence*, iii, 141.

² See article on the Prussian minister of finance, Struensee, in the *Allgemeine Deutsche Biographie*. Also Sybel, *Gesch. der Revolutionszeit* (fourth edition), and Bailieu in his introduction to volume viii of the *Publicationen aus den K. Preussischen Staatsarchiven: Preussen und Frankreich von 1795 bis 1807*, p. xxii. The article by Dr. Bailieu in the *Hist. Zeit.*, vol. 75, p. 237, aims to lay stress on the financial causes of Prussia's peace policy, but leaves the reader with the clear impression that the fundamental thing was the weakness of the ministry.

³ Cf. for example, Alvensleben's memorial of Feb. 21, 1796, in Bailieu, i, 49-51; report of Caillard, French envoy in Berlin, May 31, 1796, Bailieu, i, 443, and Lucchesini in his *History of the Causes and Effects of the Confederation of the Rhine*, translated by J. D. Dwyer (London, 1821), p. 10.

ternational interest; yet it is true of Frederick William and his advisers that their eyes were directed toward Poland and the security of Prussia's territorial interests there, until the treaty of Basel and the events following it determined that Prussia was to be a power in west Germany. Rose diagnoses the case correctly when he says, "Poland was now, as ever, the ulcer that ate into the vitals of the First Coalition."¹ The situation and interests of the King of Prussia were such that he could ill afford to divide his military strength, nor could he support two imposing armies—one on the Rhine, where the First Coalition was facing France, and one on the Vistula, where Austria and Russia were threatening Prussian interests in Poland.

The change of policy through which Prussia broke away from the First Coalition and resumed friendly relations with the French Republic, has too often been treated by historians without due regard to the peculiar conjunction of domestic and foreign difficulties which Prussia faced in the fall of 1794. The tendency has been to present the treaty of Basel as a diplomatic revolution, and a base betrayal of its allies by Prussia. The general view of the treaty of Basel is vigorously expressed by Treitschke, "It was, despite all reasons of necessity which explain or excuse it, the greatest political mistake of our modern history—a betrayal of itself for which the Prussian state atoned bitterly through two decades of deprivation and dishonor, and by unexampled struggles and sacrifices." It is the service of Bailleu,² a

¹ *The Revolutionary and Napoleonic Era*, p. 90.

² Bailleu, *Preussen u. Frankreich, 1795–1807* (Pub. aus den preuss. Archiven) and *Hist. Zeit.*, 1895. *Jahresberichte der Geschichtswissenschaft*, vol. ii, for summary of these contributions.

Prussian, and Sorel,¹ a Frenchman, developing the view of Ranke,² to have emphasized in contradistinction to Schlosser, Sybel, Hüffer and Häusser, the view that the participation of Prussia in the war of the First Coalition against France did not correspond to the interests of the national Prussian policy, and that the treaty of Basel indicates a return to that policy. Consequently in becoming reconciled, Prussia and France obeyed their old traditions. Prussia, viewing things as they were at the time of the treaty of Basel, was justified in thinking the moderate policy would triumph in France and be satisfied with Belgium, Luxemburg and Savoy, and that Prussia needed her strength to face the powers beyond the Danube and the Vistula rather than those of the Seine.

The peace movement resulting in the treaty of Basel is too often made local to Prussia.³ It is represented that the other members of the empire heard with surprise and dismay of the withdrawal of Prussia and its additional perfidy in establishing a Demarcation Line which hemmed in the military activity of many of them. A sifting out of the great amount of chaff in the reports from the Imperial Diet at Regensburg leaves enough evidence to show that the desire for peace was strong throughout the Empire.⁴ The interests of the Empire

¹ Sorel, *L'Europe et la Révolution française*, vol. iv, and *Rev. Hist.*, vols. v-vii.

² Ranke, *Hardenberg und die Gesch. des preuss. Staates v. 1793-1813*, vol. i, 217, for instances.

³ See *Hohenzollern Jahrbuch* for 1897, containing a most illuminative article by Bailieu, "Vor Hundert Jahren," in which the period is more correctly interpreted.

⁴ Bourgoing, *Hist. diplomatique de la Révolution*, vol. iv, 42 *et. seq.* Sybel, *Gesch. d. Revolutionszeit*, vol. iii, 356. Vivenot, ii, ch. 2. *Papiers du Barthélemy*, v. 114. *Pol. Korrespondenz Karl Friederichs von Baden*, ii, 317.

were clearly not bound up in a crusade on behalf of the rights of a few members on the left bank of the Rhine. The participation of the Empire—this the Diet argued in extenso later—was a matter of self-defense made necessary by the disposition of the armies of the allies.¹

The pacific disposition, as well as administrative inefficiency, of the smaller members of the Empire is shown by the reluctance with which the war policy of Austria was supported by the Diet at Regensburg.² The demand for a levy en masse made in Germany in 1794, though it became a law of the Empire in May of the same year, had produced no effect. The Emperor had asked for a hundred Roman months (*Römermonate*), the Diet had voted but fifty. The reports of Hanover's delegate, Baron Ompteda, show that this tax brought but little into the Imperial treasury. Ompteda's reports from 1794-1801 are generally arranged under the rubrics "Reichs Krieg gegen Frankreich" or "Reichsfrieden mit Frankreich." The burden of the reports touching the subject of the war against France is the failure of the members of the Empire to furnish their troops or pay their financial obligations.

The alliance of Prussia and Austria against revolutionary France had not diminished the rivalry of these two powers in the Empire. For while Austria was urging on the Imperial Diet at Regensburg the need of better armament, Frederick William II, of Prussia, was receiving appeals from smaller principalities who were clamor-

¹ Häusser, i, 542. Reports of Baron Reden, the Hanoverian delegate at the Congress of Rastatt, 1797-99, in *Cal. Br. Des. ii, E. I. No. 67* (*Hanover Archives*).

² See the complaints of Thugut (Aug., 1794) in Vivenot, *Quellen zur Geschichte der Politik Oesterreichs*, vol. ii, and same the editor's: *Vertrauliche Briefe des Freiherrn von Thugut*.

ing for the mediation of Prussia.¹ Many of these appeals were the work of agents of the Prussian cabinet present at the smaller courts—the king indeed had not gone so far² and he was yielding but gradually to the peace idea.

The peace movement dates back as early as 1793,³ but nothing definite came of the earlier efforts. Later, in June of 1794, Moellendorf, the Prussian commander on the Rhine, had made secret and unauthorized overtures looking toward peace. Some time after this, at the instance of Frederick William II, Moellendorf had sought to interest the elector of Mainz in the creation of a peace movement at Regensburg.⁴ The selection was a good one, for the elector of Mainz had been one of the chief sufferers from the disastrous war, and this, together with the fact that his was a leading position in the electoral college, made him a most excellent mouthpiece of the peace party.⁵

¹ Dispatch of Ompteda, Sept. 16, 1794, *Cal. Br. Arch. Des. 24 Brandenburg-Preussen No. 546*. Ompteda (who signs this report instead of the regular minister, Baron Lenthe) said that for some time memorials had been coming in to the King of Prussia, the main object of these memorials being to put the matter of concluding a peace in a favorable light, but, he added, they could not well be considered by the King.

² Ompteda as above has learned that the king had refused to receive any more memorials because the proposed separate negotiations were against his conviction with the sea powers. The general desire for peace in Berlin itself is seen by the credence gained by the report of special Prussian-French treaty signed at Basel in Oct., 1794. Despatch of Lenthe from Berlin, Nov. 4, 1794.

³ D'Èsebeck, Minister of Zweibrücken, was negotiating as early as June, 1793. *Sec. A, III, 76 Archives Nationales*, Paris. This reference is a note made by Dr. Sidney B. Fay, of Dartmouth, during his researches in Paris.

⁴ Sorel in *Rev. Hist.*, v, pp. 299, 303, and Sybel in vol. iii of his *Gesch. d. Revolutionszeit.*, is authority for the same view.

⁵ The influence of Denmark and Sweden exerted through Baron Die-

On October 24,¹ 1794, the delegate for Mainz, Freiherr von Strauss,² proposed a peace of the Empire with France to be effected through the mediation of either Sweden or Denmark, whose position as members of the Empire and as neutrals seemed to fit them especially for the task.³

The peace proposal was no surprise, for the intention of Freiherr von Strauss had been well known for some time. Ompteda, in assuring his superiors of what was coming, had told them that under the circumstances the peace proposal would be favorably received in Regensburg, especially by the ecclesiastical members of the Empire. The Hanoverian ministry wrote King George that the Pfalz and Saxony were going to support the peace. Wasted territory and depleted finances would justify other temporal states in joining the movement.⁴ In the absence of a measurable public opinion in the Germany

den may be suspected. (*F. O., Prussia, No. 34, Malmesbury, Oct. 20, 1794, Eng. Record Office.*) Report of an interview with co-adjutor Archbishop, Baron d'Albert, who has been told by Barthélemy that in any peace, the Rhine must remain the French frontier. This the co-adjutor does not tell the Archbishop-Elector as it would delay peace.

¹ Häusser i, 582, gives Oct. 20. For mention of Mainz as leader of the Prussian party at Regensburg, see Barthélemy, v, 250, 261-262.

² Hüffer, *Diplomatische Verhandlungen*, i, 110.

³ Report of Regency to King on Oct. 24, 1794, *Cal.-Br. Bes. II, E. I*, No. 1121.

⁴ Report of Regency to King George, Oct. 24, 1794. The ministers add that the thing which is gaining currency for the proposition of Kurmainz is the idea that the Vienna court is back of it. This rather looks as though the smaller powers were glad to seek the cover of any excuse offered, for the report might have been the work of Prussian emissaries. This report of the Regency summarizes what Ompteda had reported to them. Dec. 16, 1794, Hardenberg reports from Vienna that Prussian agents are busy spreading the report that Thugut has sent an agent to Basel (his secretary, Bellain) to conclude a separate peace for Austria. *Cal. Br. Arch. Des 24, Brand.-Preuss., No. 546.*

of that time¹ we must take the utterances of the puttering diet at Regensburg as one main gauge of the political thinking of the Empire, and certainly at Regensburg a peace policy—whether Prussian or Imperial—found much support.

The negotiations of Prussia at Basel had been opened under the guise of an exchange of prisoners.² Moellendorf and the peace party had gained the consent of Frederick William II to that form of action, and Basel had been selected because of the presence there of Barthélemy, a skillful French diplomat of the old school. But the earlier Prussian agents, Schmerz, a wine-dealer of Kreuznach, and Meyerinck, an adjutant of Moellendorf's, had materially injured Prussia's cause by making plain to the French the division in the camp of the allies.³

Despite such blunders in the early negotiations the peace party remained in the ascendant, and in December, Count Goltz, the former Prussian ambassador at

¹ On the creation of a nascent public opinion in North Germany by the French Revolution and the publications of Schlözer see Weiland, *Festrede an d. Georg. Augustus Universität* (Göttingen) den 4. Juni, 1889.

² v. Lenthe's despatches of Nov. 18 and Dec. 6, 1794, report the sending of Major Meyerinck to Basel to negotiate an exchange of prisoners, but as, according to v. Lenthe, that was already well settled, the real object of the mission, he concluded, was to find out on what condition France would make peace. *Cal. Br. Arch. Des. 24, Brandenburg-Preuss., 546. (Hanover.)*

Moellendorff had secretly opened communications with Barthélemy in opposition to King Frederick William II's wish. Cf. Sorel in the *Rev. Hist.*, v, 284, and Ranke, *Hardenberg*, i, 223. Bailleu in the *Hist. Zeit.*, 1895, p. 245 *et seq.* One is reminded of von Berenhorst's remark made ten years later: "Preussen ist nicht ein Land, das eine Armee hat, sondern eine Armee, die ein Land hat." Quoted by Havemann, *Gesch. Hannover*, p. 38.

³ For an account of the influences leading Frederick William to open negotiations, see Bailleu, *sup. cit.*

Paris, was sent to Basel. His instructions, dated Dec. 7, 1794, had been prepared from a draft made by the uncle of the king, Prince Henry.¹ They directed Count Goltz to secure a cessation of hostilities, and promise a recognition of the Republic, but not an active alliance. Prussia desired the evacuation of its provinces on the left bank of the Rhine, and the granting of neutrality and an armistice to the German princes who should come under the aegis of Prussia. Further the king wished to play the role of mediator of an Imperial peace if the French were favorably inclined—indeed, he was willing to put his services as mediator at the disposal of Austria, England, Spain and Sardinia. Prussia would acquiesce in yielding Belgium to France and assigning Salzburg to Austria as a recompense. On the suggestion of Haugwitz, as mediator, it was decided to await the action of France before they determined to cede the left bank of the Rhine.²

Goltz arrived in Basel December 28th,³ and from then until his death, February 6, 1795, carried on the negotiations with Barthélemy.⁴ Encouraged by the success of their arms in Holland, the French were able to meet with firmness the Prussian demands outlined above. They would not hear of a cessation of hostilities, and demanded the active alliance of Prussia with the French Republic. Matters moved but slowly, and so new instruc-

¹ The political activity of this prince, a brother of Frederick the Great, has just been made the basis of a work to which I have not had access, *i. e.*, R. Krauel, *Prinz Heinrich von Preussen als Politiker* (Berlin, 1902).

² Hüffer, *Diplomatische Verhandlungen*, i, 112, 113.

³ *Papiers de Barthélemy*, iv, 515.

⁴ Harnier, a Prussian agent, had been sent to Paris to negotiate there in order to hasten matters. Cf. Ranke, *Complete Works*, vol. xlv, p. 232.

tions were sent Count Goltz on January 28, 1795.¹ The chief point in the new instructions was the embodiment of Haugwitz's suggestion that the cession of the left bank of the Rhine on which France insisted be postponed to a general convention between France and the Empire.² This, in view of the news just brought by Harnier direct from Paris as to the firmness of the Committee of Public Safety, was approved by Haugwitz's colleagues, Finckenstein and Alvensleben.³ Haugwitz's plan was in the nature of a compromise, for Alvensleben desired the continuation of the war.⁴ Haugwitz's compromise covered the ideas of the king in the matter and so was embodied in the new instructions.

Barthélemy did not arrive in Basel until January 12, 1795. Full powers were exchanged on January 26, but negotiations were delayed by the illness of Goltz and their conclusion postponed by the death of the Prussian negotiator on the night of February 5 and 6. Count Hardenberg, who succeeded Count Goltz, arrived on March 18th.⁵

Many and various are the motives which have influenced the negotiators thus far, and this complication of

¹ Sybel, *Gesch. d. Rev.*, iii, 367 (4th edition).

² Sorel, *L'Europe et la Révolution française*, iv, 253, 254.

³ One needs to bear in mind the peculiar organization of the Prussian Ministry for Foreign Affairs. There were three men, all dealing with foreign affairs, and each directly responsible to the king. Cf. Tuttle's *Hist. of Prussia*, ii, 113, or Hüffer, *Die Kabinettsregierung in Preussen und J. W. Lombard* (Leipzig, 1891).

⁴ Hüffer: *Diplomatische Verhandlungen*, i, 114. Bailleu, *Hist. Zeit.*, 1895, 238, says he agreed essentially with Alvensleben.

⁵ Despatch from Hinüber dated March 20. The despatch puts the first meeting of the diplomats on the 19th at a social function given by a third party. Hinüber was present and anxious to obtain a private interview with Hardenberg, but was unable to do it in the presence of the company owing to Hardenberg's deafness.

interests will continue to control their policies throughout the period of treaty-making at Basel. The desire in the Empire for peace, the division between the allies, Austria and Prussia, the ambition of Frederick William II to figure as the mediator of an Imperial peace, the empty Prussian treasury, the desire of the French to break the coalition against them, to gain the Rhine boundary and establish peace, to restore commerce with the Hansa cities and strike England through Hanover, the need of devising something as a salve to Prussia for the humiliation of yielding her own possessions beyond the Rhine, something that would present her to the Empire as its pacifier and not its destroyer, the practical necessity of definiteness in the terms by which the German states were to be neutralized, the remnants of the feeling expressed in the *Fürstenbund*—all these circumstances and motives go to explain the acts and policies with which this chapter deals.¹

With the appearance of Hardenberg as Prussia's negotiator we are able to take up the genesis of the idea of neutralization of north Germany and the establishment of a demarcation line. This is the important phase of the treaty of Basel from the Hanoverian point of view.

The first instructions of Goltz² of December 8, 1794,

¹Von Cölln, *Vertraute Briefe über die inneren Verhältnisse am preussischen Hofe seit dem Tode Friederichs des Grossen*, (Amsterdam and Cologne, 1807), vol. i, p. 110, gives the following explanation: "Das unglückliche Neutralitätssystem ist die Frucht der Eifersucht zwischen dem Adel und dem dritten Stand. Jener wünschte theils aus Persönlichkeit, theils weil er seine rohen Producte an die Engländer verkauft, einen Krieg gegen Frankreich, dieser aus der industriösen und literarischen Classe bestehend, wünschte eine Alliance mit Frankreich, die Regierung stets von beiden Parteyen angegangen, schlägt den Mittelweg ein, und bleibt neutral."

²See Ranke, *Hardenberg*, i, 228 ff. and Häusser, i, 586-587. The summary given by Sorel in the *Rev. Hist.*, vi, 228, follows the above

had included as one of the principal objects of his negotiations securing the consent of France to the mediation of the king of Prussia for such other members of the Empire as should desire to make peace with France in this way. To these principalities, such as Franconia, the Upper Rhine Circle, Hesse, Trier, Zweibrücken, etc., amnesty and neutrality were to be granted until the conclusion of the peace. The assumption was that the French would not be opposed to any movement by which the states of the Empire came to look to Prussia as their protector. It gave expression to Frederick William II's favorite idea of effecting through his mediation a peace for the Empire.¹ But the hopes of the king were shattered by the firmness with which the French opposed mediation; the Committee of Public Safety preferred to deal directly with the individual members of the Empire and refused to consider an armistice.² Moreover, the Committee, supported by the victories in Holland, and secure in the feeling that the pressure for peace was strong enough in the Empire to secure their demands,³ sent Harnier back with that answer, and they insisted further

works. Haugwitz's deception of the English regarding the object of Count Goltz's mission is revealed in his declaration to Lord Spencer that "the business had been undertaken with the Emperor in consequence of the requisition of the Germanic body. . . . He assured me . . . that Goltz's instructions were confined to the inquiry how far it might be practicable to obtain an armistice for the Empire which might eventually bring about a general pacification." Lord Spencer (from Berlin), Jan. 10, 1795. *Auckland Papers*, vol. ix. (*British Museum, Additional Mss.*).

¹ See Art. 2 of the instructions to Goltz in Kaulek, *Papiers de Barthélemy*, iv, 582.

² This was the reply both to Harnier (*Cf.* Ranke as below) and to Goltz, *Papiers de Barthélemy*, iv, 578, 580.

³ Ranke, *Hardenberg*, i, 234.

that the Rhine must be France's boundary. Barthélemy, on January 24th, gave Goltz essentially the same reply. Goltz was told that France would be glad to treat for peace with the several states of the Empire alone, or in conjunction with Prussia.¹ Mediation by Prussia seemed to have received its quietus.

The second set of instructions for Goltz, dated January 26, are not to my knowledge in print.² We are assured that they yielded on the point of the armistice, and, as stated, postponed the question of ceding the left bank of the Rhine until a general pacification of France and the Empire should decide the matter. Mediation and neutralization seem also to have remained in abeyance until Hardenberg's appearance as Prussia's envoy.

Goltz on his way south had stopped to talk with Hardenberg, and the latter soon after sent to Frederick William a memorial containing his views on the peace. This interesting paper from the ex-Hanoverian is printed in the memoirs of that officious disciple of "the divine Machiavelli," Colonel von Massenbach.³

The paper is dated January 13, 1795, from Frankfort on the Main. After a sweeping review of the European situation as a necessary preliminary to determining the best policy for Prussia, Hardenberg concludes that the country needs a peace which does not involve the danger of a still more disadvantageous war in the immediate future. After considering the possible lines of action

¹ "M. de Goltz a paru charmé de cette déclaration puis qu'elle laisse à sa Cour quelque moyens de jouer un rôle auprès de ses Co-états." Barthélemy to the Com. of Pub. Safety, January 24, 1795. Barthélemy, iv, 580.

² They are summarized in Sybel, iii, p. 353. Dated Jan. 28.

³ See Massenbach, *Memoiren zur Geschichte des preuss. Staates unter den Regierungen Frederick Wilhelm II., and Friedrich Wilhelm III.*, vol. ii, appendix ii. (Amsterdam, 1809.)

with peace in view, he discards the idea of an alliance with France as "faithless, dishonorable and unpolitic." A second possible policy, and the one preferred by Hardenberg, would be for Prussia to secure neutrality for itself and the members of the Empire who have appealed to it, and to do this without alienating the allies, especially Russia, in Polish matters. This means that France must be willing to give up the idea of the Rhine as a boundary, and that Prussia could explain to its allies its reasons for seeking peace. If, says Hardenberg, Prussia withdraws without an understanding with Russia or the Empire, she is making a most daring move.

Suppose, however, that neutrality is established in the way mentioned above, how is it to be maintained? If Austria continues the war, Prussia cannot permit violations of its neutrality by the passage through the neutralized territory of the troops of either belligerent. The best means of maintaining the established neutrality would be by Armies of Observation, each to be supported by France and Prussia on their respective boundaries. The Prussian corps ought to consist of from 18,000 to 20,000 men, including the quotas of the other states declared neutral, in which category Hardenberg names Saxony, Mainz, Trier, Hessen, Baden and Würtemberg. Prussia ought further to put a corps in Westphalia and in Frankenland, and then withdraw the rest of its army within its own boundaries.

As the third case to be considered, Hardenberg names the continuation of the war. If this contingency arises the war must be defensive.¹

These ideas evidently met the general approval of

¹This brief summary is based on the text of the memoirs given by Massenbach, vol. ii, appendix xi.

King Frederick William II., for their propounder was commissioned as Goltz's successor. With the appearance of Hardenberg as negotiator, the subject of the neutrality of North Germany, defined and defended by a demarcation line, becomes one of the leading subjects for discussion.¹

At the very first meeting with Barthélemy on March 19,² Hardenberg proposes "as an object of mutual benefit to neutralize *de ce côté là* the north of Germany,"³ its tranquillity to be maintained by a cordon concerted with France. This, he urged, would be an advantage for France, for it would allow her to turn her arms against Austria. Barthélemy's cautious reply was that the system of neutrality would not, in general, be accepted by France, and could not be a point in the pacification. It might, however, be a subject of arrangement between the respective generals.⁴ On March 22, Barthélemy transmits

¹ It was one of the three main points in his instructions. Cf. Bourgoing, *sup. cit.*, 161, 162. Häusser says the Demarcation Line was the only point Haugwitz was willing to make a stand for. *Deutsch. Gesch.*, i⁴, 594. Hardenberg was verbally instructed to promise that Prussia would take Hanover *en dépôt* if France desired it. See letter of king to Hardenberg. Barthélemy, v, 149.

² Barthélemy, v, 116 *et seq.* Bourgoing misreads the despatch and gives March 20. Vivenot in his *Herzog Albrecht v. Sachsen-Teschen*, ii, 140, prints Hardenberg's arrival March 8, 1795, ten days too early.

³ *Papiers de Barthélemy*, v, 117. Hardenberg's instructions were to present this matter which had already been suggested by Moellendorf, and was an idea which Harnier and Barthélemy had discussed. *Rev. Hist.*, vii, 319. (Summary of H.'s instructions.)

⁴ Concerning the nature of Moellendorf's proposition see Barthélemy, v, 108. On March 18, Moellendorf wrote the French General Jordan that he (M.) would have his troops scrupulously observe the terms of the negotiation at Basel and expected the same from the French "En conséquence je vous avertis, Monsieur le général, que le but de la marche de l'armée prussienne dans ces contrées est d'éloigner les troupes étrangères des États du roi et de tirer ensuite la ligne de démarcation

to the Committee of Public Safety the outline of Hardenberg's plan of neutralization.¹ The English troops in the Lower Rhine region were to be embarked for home, the Hanoverian forces to be confined within their own boundaries. The encampment of Moellendorff's soldiers and those of the French were fixed, and the following territory was to be neutralized: The Rhine from the Wesel to mouth of the Lahn opposite Coblenz; a diagonal to be drawn from there to Frankfort; the line to run from that city to the principalities of Darmstadt and Franconia, which were to be included in neutral territory. All the German states in this line, particularly the landgrave of Hesse-Cassel, were to withdraw their troops from the imperial army. Every facility would be given the French army for prosecuting its siege of Mainz. Barthélemy's reply was that he could not conclude the matter without instructions from Paris or information from the French generals; that such a proposition was new matter introduced with a view to delaying the negotiations.² His objection was that Prussia had proposed

désignée et convenue déjà en général à Bâle, mais dont il nous reste encore à convenir ensemble des détails." (See Barthélemy, v, 123.) This, it will be noticed, was on the day before Hardenberg's first conference with Barthélemy. France had already shown a willingness to confer with Moellendorf, Barthélemy, v, 127, *et seq.*

¹ When Hardenberg outlined his proposals for neutralization, he was told by Bacher that Moellendorf had proposed a project of neutralization much like Hardenberg's, and that it was considered by the French as a matter to be arranged by the generals. Hardenberg spoke cavalierly of the general and his project. The proposals his government had ordered him (Hardenberg) to make had nothing in common with M.'s plan he said. Barthélemy, v, 128.

² Sybel says that Barthélemy proposed a demarcation line as a good way for avoiding friction between the troops. With this idea Haugwitz agreed. This action of Barthélemy's, Sybel places in the period between the death of Goltz and the arrival of Hardenberg. See Sybel,

it as an indispensable article just as they were about to sign, and it appeared to him that such an arrangement would be more acceptable after the treaty had been concluded. Hardenberg replied that he must insist upon such an article as part of the treaty, and that it had been an essential part of the instructions of his predecessor, Goltz, to insist upon this point.¹

Barthélemy was surprised, vexed, suspicious. In view of Goltz's failure to insist upon any demarcation line, he was inclined to consider it a move made by Hardenberg on his own responsibility, and arising out of his desire to save his native land, Hanover. From the first Barthélemy laid emphasis on Hardenberg's birth and training as an explanation of his interest in securing the neutrality of the Electorate and its neighbors.² There was much to justify such a view of the Prussian envoy's conduct, but the situation was too serious, the import of the policy of neutralized North Germany too far-reaching, to justify referring it to the particularistic spirit of an agent. Certainly Hardenberg, whatever may have been his motives, was almost suspiciously frank in avowing himself a Hanoverian. In an interview with Bacher,

Gesch. d. Revolutionszeit, iii, 370 (4th ed.). The evidence of the Barthélemy papers is all against this statement. Barthélemy's project of a treaty in the first part of March has no such plan. Barthélemy, v, 102; see also Barthélemy, v, 117. Thugut, in a letter to Starhemberg, the Austrian ambassador in London, July 11, 1795, says: "Depuis est survenue la ligne de démarcation prussienne que la cour de Berlin affirme d'avoir été provoqué par une note de la Régence d'Hanover en date du 2 de mars." Vivenot-Zeissberg, *Quellen zur Gesch. d. Politik.*, iii, 290, 291. The idea of an armistice, as has been suggested, has in it the germ of a demarcation line. See Meyerinck to Bacher, Dec. 7, 1794, in Barthélemy, v, 30, 31.

¹ Barthélemy, v, 128.

² *Ibid.*, v, 113 (compare pp. 125, 126), 117, 118, 130, 131, 206.

the French attaché, he declared that "although he is serving the Prussian * * * * government, he is by no means Prussian, nor is he in any degree English; but that he is a good German, and above all a good Hanoverian; that in interesting himself earnestly for the tranquillity of Germany, he is more particularly interested in that of Hanover, and that he sincerely hopes the present situation of affairs will give the Electorate an almost absolute independence from England."¹

Such open avowals, sincere as they may well have been, could not long have served to explain a national policy to such an able diplomat as Barthélemy. The French ambassador was not long without evidence that the Prussian king was decidedly in earnest in his desire to cover his own withdrawal by securing the neutrality of the North of Germany. Through the kindness of Hardenberg, Barthélemy was able to transmit to the Committee of Public Safety a copy of an important letter of Frederick William's dated March 24, and addressed to Hardenberg. The most notable passage stated the king's views on the subjects of neutrality and a demarcation line, which, said the king, "I still regard as the most important point of all. I am resolved not to abate from it, and, though feeling quite sure it will meet with more opposition, I am far from losing faith in your ability to achieve success."² From this letter and from the attitude and arguments of Hardenberg, the Committee could easily convince itself that Prussia stood firmly for two things, the secrecy of the cession of the

¹ Barthélemy, v, 148. See Hardenberg's comments on his instructions in Ranke, *Denkwürdigkeiten Hardenbergs*, i, 289.

² *Ibid.*, v, 149. Barthélemy had already given the Committee his view, that a demarcation line was an irrevocable part of Hardenberg's instructions. *Ibid.*, v, 133.

Prussian provinces on the left bank of the Rhine, and the establishment of a demarcation line whose maintenance would create a sort of Prussian hegemony.

The picture we get of the situation at the time of Prussia's negotiations at Basel, is that of King Frederick William II. still leaning towards the alliance against France, but drawn into negotiations with that power by his ministry and by a certain clique in the army reinforced by the king's uncle, Prince Henry of Prussia.¹ The king is forced by domestic conditions and by the complications in Poland,² now aggravated by the treaty of January 3, 1795, between Russia and Austria, to secure free hands to protect the interests nearest his heart, the acquisition of territory in Poland. To do this, he must pacify the French who want peace but who demand with it the cession of the left bank of the Rhine, hitherto an integral part of the Empire and a region in which Prussia had dependencies. In other words, Frederick William II. met the claim of the French for the Rhine as

¹ "Il (Harnier) rejette bien loin l'idée qu'elle puisse accepter de nouveau un subside anglais. Il dit que dans le temps de la conclusion du traité de subside, il occasiona une indignation universelle à Berlin et à l'armée, qu' il se forma une petite coalition contre cet arrangement, que le Prince Henri avec le maréchal Moellendorf et quelques vieux généraux du feu roi, firent tout ce qu'il falloit pour empêcher que les conditions n'en fussent remplis; qu'ils parvinrent même à faire intriguer à Londres et à y inspirer une telle défiance contre le roi de Prusse, que le gouvernement anglais lui-même rompit le traité en ne payant les subsides jusqu'au 1^{er} novembre (v. s.) tandis qu'il étoit stipulé qu'ils servent jusqu'au 1^{er} decembre. Il ajoute que ce procédé anglais a été un moyen puissant dont s'est servi le parti sage de sa cour pour animer le roi de Prusse contre le cabinet britannique et qu'il n'a pas peu contribué à lui faire prendre la ferme résolution de faire la paix avec la France." Barthélemy to Committee of Public Safety, March 16, 1795, v, 114. Wöllner's appeal to the King to abandon the allies is in *Hist. Zeit.*, 62, 285.

² Barthélemy, v, 18.

a boundary with the counter-claim of a protectorate over those states desiring to leave the leadership of Austria and conclude peace with France. If he were reproached for betraying the Empire by a separate peace,¹ and for violating its constitution by acquiescing in the cession of part of its territory, he could hush complaint by the gratitude of the states of the Empire already safely walled behind a Prussian demarcation line,² and by beginning negotiations looking to an Imperial peace under the leadership of Prussia.³ If this were accomplished, Frederick William could view with satisfaction his own part in the matter. Moreover, now that the magic word secularization had been spoken at Paris,⁴ it looked as though Prussia would obtain a considerable advantage from the cession of her provinces beyond the Rhine for which an abundant recompense might be given her in territorial gains nearer home.⁵

What arguments and conditions could Prussia present which would bring the Committee of Public Safety, in spite of their *ultimatum* of March 10,⁶ to accept the

¹ King Frederick William's reluctance to be a despoiler of the Empire finds frequent expression in Hardenberg's representations, see *e. g.*, Barthélemy, v, 170.

² Barthélemy v, 130, 261, Vivenot-Zeissberg, *Quellen zur Gesch. d. Politik Oesterreichs*, iii, 326.

³ Moellendorf writing in November of 1794 says most of the states of the Empire, even whole circles, have claimed the mediation of Prussia without waiting the action of the Diet. Barthélemy, v, 17.

⁴ French reply to Harnier in January, 1795, Bourgoing, *sup. cit.* 133.

⁵ This view of the inseparability in the Prussian plan of balancing their blow at the Empire, with which Austria could indict them, by a demarcation line that gave Prussia a better place in the Empire and a claim on the gratitude of the states benefited, is presented quite clearly in Hardenberg's interview with Barthélemy March 25, see Barthélemy, v, 130-133. It is essential to an understanding of King Frederick William's position.

⁶ Barthélemy, v, 106, 111.

policy proposed by Hardenberg, that is, the policy of a neutral North Germany?

A glance at the military situation in the early spring of 1795 shows a French army so disposed as to invade Westphalia at any moment. On the other hand the Hanoverians were making energetic efforts to put themselves in a state of defence,¹ and in this they had the assistance of English soldiers and mercenaries in an attempt to run a cordon from Emden to Münster.² This meant that France must maintain a large force here to watch the allies which it might otherwise employ against Austria. Suppose the French troops should advance? Hardenberg pictured Hanover as on the verge of a revolution that would surely break out at their first approach. Such an outbreak could not but prove detrimental to the Republic's cause. It would be equally injurious to the neighboring Prussian states, to which it would surely spread. The king of Prussia could see but one thing to prevent this catastrophe, that was the neutralization of north Germany.

From the political point of view, so ran Hardenberg's argument, France was to think what a superb rôle she would attribute to the king of Prussia and share with him in creating such a neutrality. It would instantly determine all the princes of the Empire who longed so much for peace "to throw themselves into the arms of Prussia in order to find their way to the arms of France, and the final result of such action, isolating the Court of Vienna, would put it in a most embarrassing position and deal it a mortal blow,"³ It

¹ Lehmann, *Scharnhorst*, i, 168 *et seq.*

² Barthélemy, v, 122.

³ *Ibid.*, v, 132. Sorel, in the *Rev. Hist.*, vii, 333, sums up the arguments for the demarcation line as Hardenberg viewed it.

would sever all connections between England and Hanover and free France from all embarrassment from that side. Hardenberg solemnly assured Barthélemy that this separation of the Electorate from Great Britain would be done in a way that France could approve. What more could France desire on this point; for King Frederick William could not suppose the French wished to devastate Hanover and incite a revolution there; furthermore he could not permit it.¹ On the demarcation line Hardenberg was instructed to stand firm—the alternative was war—an alternative the king would regret, but which he would push with all necessary energy.²

To put Hanover behind a neutralizing demarcation line would allow France to kill four birds with one stone. It would be a blow at the reigning family of her arch-enemy, England,³ then active in Hanover, and at its coadjutors, the Emigrants;⁴ it would placate Prussia; it would weaken Austria; it made possible the disposal of the Stadtholder, to whom Hanover, when once taken *en dépôt* by Prussia, might finally be given as an indemnification.⁵ Another element was the untrammeling of

¹ King Frederick William to Hardenberg, March 24. Barthélemy, v, 149.

² Same to Reden, Hanoverian minister. Malmesbury, *Diaries*, etc., iii, 206. Barthélemy, v, 150, also 137. The general view has always been that if Hardenberg had been backed by the war alternative, he could have made better terms. ³ Barthélemy, v, 252.

⁴ *Ibid.*, v, 153, 154. Lehmann, *Scharnhorst*, i, 195.

⁵ That such a plan is in the minds of the French at this time is shown clearly, Barthélemy, v, 205, 206, 227. Prussia was suspected of having a similar plan now and later; *Ibid.*, v, 153-4. The French agent in Bremen says: "On croit cet arrangement d'autant plus aisé que la nation anglaise ne demanderait pas mieux que de se débarrasser de cet électorat qui lui coûte tant de sang et de trésors et qui donne toujours une grande importance au roi." The writer of this despatch sadly lacked history and humor.

the commerce of the Hanseatic cities—a decisive motive now, as well as later, in determining French, Prussian, English and Russian policies toward north Germany.¹

Barthélemy was quick to see what Prussia was aiming at in the policy of neutrality, and paid Berlin statesmanship the compliment of calling their plan a most skillful move.² From a diplomatic neutrality on the matter, Barthélemy passed to the advocacy of the Prussian idea.

The Committee of Public Safety was at first strongly hostile to the scheme. It would trammel all their military operations, and then they said, "Where is there a Frenchman who would forgive them for neutralizing a state (Hanover) dependent upon England?" But their haste to close the negotiations,³ the advantages presented by Hardenberg,⁴ the firmness of King Frederick William in making this an ultimatum, as well as the course of events in France itself, where the struggle of factions was making the tenure of the Committee more and more uncertain, led them to yield, and on March 31 they instructed Barthélemy to agree to the Demarcation Line.⁵ Thus the treaty was signed April 5, 1795.⁶

The conclusion of the treaty met with a general favor

¹ Suggestive on this point are the references in Barthélemy, v, 132, 195, 196, 289. Hanoverian troops had just seized Bremen and Ritzebüttel, Hamburg's seaport. For the proclamation of Frederick William II. severing the relations between Hamburg and France, see *A Collection of State Papers Relative to the War against France*. London, 1794.

² Barthélemy, v, 134.

³ *Ibid.*, v, 111, 135, 182.

⁴ *Ibid.*, v, 136.

⁵ *Ibid.*. Reasons for assenting to such an extension of the Demarcation Line, v, 169. Prussian point of view, same vol., 134, 147.

⁶ For map of Demarcation Line *cf.* Vivenot, vol. ii. The area included in the neutral zone is, in general, that covered by the North German Confederation of 1866.

in Germany—the most notable exception being the head of the Prussian state, who seems to have wished more or less openly that the negotiations would fail.¹ The interest of Frederick William was not and never had been in the negotiations at Basel. It was the vision which the ministry had so skillfully placed before him, namely, that of playing the role of prince of the peace, which had induced him to send Goltz on his mission. Often, very often, the vision grew dim, seemed like an air-castle to the king.² The clink of English gold might have dispelled the vision forever and restored the king to the First Coalition, but the English ministry delayed, and when their offer of subsidies came, it was too late.³

¹ *Paget Papers*, i, pp. 71-105 *passim*.

Journals and Correspondence of Lord Auckland, iii, 299-300, London, 1860-1862.

² His own phrase. See *Hist. Zeit.*, 1895, p. 268.

³ Never in all the weeks of the negotiations at Basel did Lord Henry Spencer, the English ambassador at Berlin, despair of winning the Prussian king again to the allies' cause. He believed that a subsidy sufficient to relieve Prussia's needs would accomplish this end by allowing Frederick William to gratify his desire to win glory at the head of his army on the Rhine. Of Bischoffswerder's influence Lord Spencer felt sure. It was Schulenburg and "his tribe" that he feared. On February 27, 1795, Spencer writes: "So great is His Prussian Majesty's personal eagerness to make another campaign that I believe it would be still possible to carry that point in opposition to Prince Henry and all the ministry, if I were to receive immediate instructions for that purpose." (*Auckland Papers*, vol. lx.) Hope was renewed when Hardenberg was appointed. "M. de Hardenberg is, I believe, the only one of the King of Prussia's ministers who concurs in His Majesty's wish to continue the war. He, however, agrees in the perfectly evident necessity of an immediate peace if no offers of subsidy are made by England . . ." (March 10.) On March 24, Spencer writes: "M. de Hardenberg, who still continues to entertain hopes of relief from England, has lengthened out his journey (so) as not to arrive at Basel before the 19th of this month. He will continue to observe a similar conduct during the first few days of the conferences, but if at the end of

The rather hastily-concluded treaty of April 5¹ made

that time he perceives that no offers will be made to Prussia, he will be obliged, both by his duty and by a sense of the distress situation of his country, to think of nothing but making the best terms he can with the French."—*Auckland Papers, Additional Mss., Brit. Museum*, vol. lx.

This hope of delay on Hardenberg's part probably came from the Duke of Brunswick, who was disgruntled with the prevailing views at Berlin. Malmesbury, then in Hanover, writes Grenville the news of Hardenberg's instructions, direct from Hardenberg, "who is an open, communicative man." Hardenberg had stopped at Brunswick, and Malmesbury's words, "direct from Hardenberg," suggest the Duke as the medium of communication. It is, however, Gervinus, "much more artful and able" than Hardenberg, who says directly that Hardenberg will delay negotiations with France in the hope of an agreement being reached between England and Prussia. Malmesbury, March 18, and April 6, 1795, *English Record Office, F. O. Prussia* 36. The manoeuvres of the anti-war cabal to induce the King to conclude peace, and the intentions of Hardenberg to delay negotiations, show how weak and unsteady was the guiding hand in the Prussian state. For other references to Hardenberg's intentions to delay the treaty see *Rev. Hist.*, vii, 321-336.

The English ministry was finally induced to propose anew a subsidy treaty. On April 10, the very day when Lord Spencer is writing from Berlin, that on the advice of the Duke of Brunswick he is going to approach Frederick William, even if peace is already concluded, the British ministry sent him a draft of a treaty that he is "without loss of time (to) communicate in the most secret and confidential manner . . . to the court of Berlin." (*Auckland Papers*, lx, (*Spencer's Letter Book*) *Brit. Museum, Additional Mss.*) The step was taken too late. On April 12, Meyerinck arrived in Berlin with the treaty of Basel and its general purport was known to Spencer two days later. On July 8, 1795 (*F. O.—Prussia*, vol. xxxviii), Mr. Gray, Spencer's successor, wrote that the king of Prussia "would certainly have acceded to the proposals brought by Col. Calvert if they had come a month sooner."

¹ See Barthélemy's reply to the criticisms of the Committee of Public Safety, *Papiers de Barthélemy*, v, 182. Lord Spencer writing from Berlin, June 9, 1795, says: "M. de Hardenberg has assured a person at this place that if he had been allowed more time, he could have obtained infinitely more favorable terms for Prussia, even a stipulation in favor of Holland, but that his orders to sign the treaty without delay were so pressing and so constantly repeated that he could not

mention of future arrangements as to the removal of the theatre of war from north Germany.¹ The necessities of the re-established freedom of commerce, and of providing for exigencies arising under the Demarcation Line, made a more definite arrangement advisable.²

At Berlin the feeling was that Hardenberg had made Prussia assume too large a load of responsibility, when he gave the Demarcation Line such an extent and made Prussia responsible for the neutrality of all the states behind it.³ The elector of Saxony had not as yet expressed approval of the Prussian policy, or sought Prussian mediation.⁴ If it came to a question of forcing him to acquiesce, in addition to taking Hanover *en dépôt*,⁵ and facing possible complications arising from this, the treaty would furnish Prussia with anything but the benefits of undisturbed peace. The Berlin statesmen wanted such a modification of the Demarcation Line as would make Prussia responsible for the acquiescence to the treaty of Basel of a much smaller area.⁶

take it on himself to disobey them. He attributes the excessive precipitation entirely to the haughty and menacing language of the two Imperial courts." *Auckland Papers*, vol. xl (*Brit. Museum*).

¹ See article vii of the open treaty. De Clerq, i, 243.

² Sorel in an article on "*La Neutralité du Nord de l'Allemagne* (*Revue Hist.*, xvii), gives an account of the negotiations after April 5, 1795.

³ Ranke, *Hardenberg*, i, 298.

⁴ Barthélemy tells the Committee of Public Safety on May 13, that Hardenberg has assured him that the Elector of Saxony acquiesced in article III, and had written to Vienna favoring peace. Barthélemy, v, 252.

⁵ Hardenberg had been assuring Barthélemy that Hanover would accede to the neutrality stipulations (see Barthélemy, v, 204, 213), and that there was nothing to be feared from Hanover despite the disturbances at Bremen. Barthélemy, v, 184.

⁶ *Ibid.*, v, 197, 203.

The French dissatisfaction was with the fact that King Frederick William's promise to take Hanover *en dépôt*, if the French demanded it, was not made an integral part of the treaty. If Hardenberg was willing to give promises to that effect after the treaty negotiations were closed, why, inquired the Committee, had the clause not been incorporated in the instrument of peace?¹

Hanover was the key to the commerce of north Germany. Its location commanded the mouth of the Weser and Elbe, and it lay within striking distance of the course of the Ems. At the mouth of Weser was the Hanseatic city of Bremen; at the mouth of the Elbe was Hamburg; Lübeck, the third great Hanseatic city, lay just beyond Hanoverian borders. The great commercial routes from these cities to Cologne, to Frankfort, to Leipzig and southeastern Europe, passed through the electoral possessions of George the Third.² No wonder, then, that the desire to secure such commercial advantages played a large part in leading the French to approve King Frederick William's policy of neutralization.³ The seizure of Bremen and Hamburg by the Hanoverian troops, and their general activity which threatens the tranquillity of the north, led the Committee to appeal to Prussia to interfere in the purpose of keeping their ports open. To quote their language, "This last point is of the greatest importance to the republic and nothing in the world is more urgent."⁴

¹ Barthélemy, v, 174. King Frederick William had promised it in his letter of March 24, 1795. *Ibid.*, v, 148.

² The diplomatic notes prepared by v. der Decken in 1803 in the effort to induce Russia to interfere in Hanover's behalf against the French occupation, present these points elaborately and forcefully.

³ Barthélemy, v, 179.

⁴ *Ibid.*, v, 237. Committee to Barthélemy, May 10, 1795.

Both were anxious to conclude the negotiations so that the treaty might be published.¹ France would thus be assured of its commercial advantages, and Prussia would be able to take open measures to secure the acquiescence of states within the Demarcation Line, and thus check the agents of Austria who were busy arousing these states against Prussia and urging on them an Austrian alliance as the only means of safety.²

Despite the real desire of both parties to conclude the *convention additionnelle*, it was not signed until May 17th,³ the delay being due to the fact that the Committee of Public Safety did not desire to agree to the modification of the Demarcation Line until it had the assurance of its generals that the French military operations would not be hampered by the new line.⁴

¹Barthélemy, v, 175, 179, 189, 209, 223, 226. The excessive haste of Prussia in wishing to circulate some sort of treaty is illustrated in their giving out a *convention additionnelle* which had not been agreed to by Barthélemy. See Barthélemy, v, 241-243. A copy of the false *convention additionnelle* was forwarded by von Lenthe from Berlin on May 5, 1795. The actual contents of the treaty of May 17th do not seem to have been known in Hanover until 1797. In June, of 1795, Haugwitz solemnly denied that there were any provisions other than those made public.

²Barthélemy, v, 255. For Austrian anger at Prussia's action *cf.* p. 215 of vol. v. Lehrbach was the Austrian agent and was not as successful as the allies had hoped he would be. The excuse of the states who turned to Prussia was that in their weakened state they could be no help to the Emperor and only expose themselves to further danger. *Cf.* despatch of R. Heathcote, English agent to Cologne and Cassel. *Eng. Record Office*, July 21, 1795. On Hardenberg's efforts to further Prussia's cause see Vivenot, *Albrecht v. Sachsen-Teschen*, etc., ii, pt. 2, VIII Abschnitt.

³Barthélemy, v, 269.

⁴The Committee's explanation of their delay is given in Barthélemy, v, 228, 237. The advice of Pichegru—favorable to the Demarcation Line (see Barthélemy, v, 239-243)—arrived too late (Barthélemy, v, 263), for the Committee sent their assent (Barthélemy, v, 269) without waiting

The *convention additionnelle* of May 17th¹ consisted of a group of open articles and two secret articles. The two new points in the open articles are the fact that the King of Prussia only binds himself to force neutrality on the states behind the demarcation line and on the right bank of the Main, and that four military routes from Frankfort to Coblenz and Cologne are specified² along which the French and the imperial troops could move through the neutral territory. The two secret articles relate to the electorate of Hanover and the city of Frankfort.³ By the first⁴ the King of Prussia promised to occupy Hanover if it did not accede to the neutrality arranged for it. France was thus to be more effectively protected from all contemplated hostile enterprises of the Hanoverian government.

On April 14, 1795, Hinüber, the Hanoverian agent on watch in Basel, arrived in Hanover with a copy of the treaty and secret articles of the peace signed April 5. Hardenberg had made the treaty known to him on the 8th, and in a burst of pleased confidence had told Hinüber that "he considered it the most fortunate

longer (Barthélemy, v, 255). The treaty was signed as soon as the approval of the Committee reached Barthélemy, May 17.

¹ See Barthélemy, v, 270-272 (inc.), or De Clerq, i, 242 *et seq.*, for copy of this treaty, Historians often refer to this and the treaty of April 5th as one and the same instrument.

² See Barthélemy, v, 204, 263.

³ As to the object of the article on Frankfort see Barthélemy, v, 204. The secret provision as to taking Hanover *en dépôt* was first communicated to the Regency by Ompteda in his despatch of May 12, 1799. [*Hanover Archives.*]

⁴ The article reads. "Dans le cas que le gouvernement de Hanovre se refusât à la neutralité, Sa Majesté le Roi de Prusse s'engage à prendre l'Électorat de Hanovre en dépôt, afin de garantir d'autant plus efficacement la République française de toute entreprise hostile de la part de ce gouvernement."

moment of his life in that, while performing the service due the king he now served, he was able to follow the desire he always had of aiding his native land (Hanover) and the government he had once served." The plan of the treaty was his alone, as he had outlined it at his last visit to Berlin, and as it had been approved by the king and Haugwitz despite the efforts of the opposition party, which did not wish to give the demarcation line such an extent. The turn of affairs in Paris had helped him secure such favorable terms.¹

Hardenberg then allowed Hinüber to copy the treaty in his (Hardenberg's) room on promise that it would be shown only to the Hanoverian ministry. The latter immediately sent a copy to King George, calling his especial attention to the secret articles.² This information of the contents of the treaty given Hinüber by Hardenberg was the first notification to the outside world of its contents.³

¹Hinüber's report in *Cal. Br. Des.* 11, E. II, no. 395.

²Ministry to King George, April 16, 1795. *Cal. Br. Des.* 11, E. I, no. 1130.

³The effect of the news of the treaty on the Imperial Diet in Regensburg is given in a letter of April 21, 1795, from Goertz, the Prussian delegate, to Hardenberg. Cf. Kaulek, *Papiers de Barthélemy*, v, 215. Meyerinck, the Prussian messenger, reached Berlin with a copy on April 12th, but the contents were not known for some time. See despatch of v. Lenthe's to ministry, April 14, in *Cal. Br. Arch. Des.* 24, *Brandenburg-Preussen*, no. 546.

CHAPTER III

HANOVER ACCEPTS PRUSSIAN NEUTRALITY

THROUGH the story of Prussia's negotiations at Basel, we are brought to a consideration of Hanover's attitude toward the peace negotiated for her. This account of Hanover's attitude toward peace requires a consideration of her anomalous position, and a retrospective glance at affairs in Regensburg since the peace proposition of the elector of Mainz, in October, 1794.

Hanover occupied a peculiar position. She was one of the leading members of the Empire. To her ruling house had been given the electoral hat in 1692, and during the century since, no state had excelled Hanover in loyalty to the house of Hapsburg.¹ But in the French war beginning in 1792, she had not sent her troops to join the Imperial army, preferring to pay a contribution instead.² She had, however, accepted subsidies from England, and Hanoverians in English pay had taken a most honorable part in the campaigns in Flanders,³ but

¹ See Ward, *Great Britain and Hanover*, p. 10. "Which of these (members of the Quadruple Alliance) could compare with the devotion of the House of Brunswick-Lueneburg to the House of Austria? This sentiment was as an article of faith with the Hanoverian advisers of Geo. I." One could hardly say as much for the sentiments of the Hanoverian ministry of George III.

² Von Sichart, *Gesch. d. hannov. Armee*, pt. iv, pp. 22-30.

³ Havemann, *Geschichte von Braunschweig und Hannover*, vol. iii, pt. iv.

this giving of both men and money was a strain on the lukewarm German patriotism of those times.¹

The success of the French in Holland² in the fall and winter of 1794-95 had laid open the western border of the Electorate, and threatened to bring war to the very firesides of the Hanoverians. Having had no interest at stake in the war of the Empire with France, Hanover manifested the usual indifference of communities called upon to defend distant fellow states.³ The loyalty of Hanover to George III. did not furnish a sufficient ground on which to appeal for greater sacrifices, for the Hanoverians saw that it was King George of Great Britain, and not Kurfürst Georg of Braunschweig-Lüneburg, who was engaged in the war.⁴ Despite this, however, the English king and his Hanoverian ministry had hitherto agreed on the maintenance of the Empire and friendship with Austria as the best course for a middle

¹ While recruiting for the defence of the Electorate in 1796 and again in 1803, the Regency had to take measures to prevent the young men from leaving the country.

² Hüffer, *Diplomatische Verhandlungen*, i, 113.

³ See the complaints of the Imperial commander as to the indifference of the Northern members. Vivenot, *Herzog von Sachsen-Teschen*, ii, 411. It reads quite like the complaints of a New York colonial governor as to the impossibility of making Virginia see the need of protecting a northern colony in case of a French-Indian war.

⁴ E. von Meier, *Hannoversche Verfassungs- und Verwaltungsgeschichte*, vol. i. Hanover had been called on for its quota for the Imperial army in the fall of 1792. Of the levy *in triplo*, 120,000 men (See Vivenot, *Herzog Albrecht, etc.*, ii, 398, for an explanation of the formation of an Imperial army), Hanover should furnish as member of the Circle of Lower Saxony, 1131 cavalry and 2742 infantry. The outbreak of war between England and France had caused the former to take some 12-13,000 Hanoverians in its pay, and these with Hanover's Imperial quota, and other English soldiers and mercenaries, marched to the defense of the Netherlands. Von Sichert, *Gesch. d. hannov. Armee*, pt. iv, pp. 22-30.

power in north Germany, particularly a power so much at the mercy of a strong neighbor like Prussia.¹

Hanover's attitude on the matter of a general peace was complicated, moreover, by the peculiar dual position of its sovereign, who was at once king of England and prince of the German Empire. As king of England he was the ally of Austria, which was earnestly opposing the peace movement in the Diet at Regensburg. By what sort of metaphysics, then, was Kurfürst Georg to appear in the Imperial Diet as an advocate of the peace so heartily condemned by King George and his allies? On the other hand, what right had the king of England to sacrifice the electorate of Hanover to the demands of an English alliance, especially since Austria, as we have seen, was working to prevent the success of what it chose to call the "unexpected" ² move of the elector of Mainz? Did Pitt, as was so often claimed, control a vote in the German Imperial Diet which he could cast for England's interests?³ Such were the puzzling questions involved in the determination of Hanover's policy on this single issue.

¹ The loyalty to Austria was always tempered by fear of Austria's plans to sacrifice the Empire to the greater interests of the Hapsburgs. At least this applies to the attitude of the Hanoverian ministry. Ministry to King, Oct. 11, 1795 and March 12, 1797. *Cal. Br. Des.*, 11, E, I, no. 1121. (*Hanover Archives.*)

² Report of Ministry to King, Nov. 7, 1794. The Hanoverian ministry could not call the Mainz proposition "unexpected," but they did express surprised disapproval of the urgency of Mainz in the matter. "Insonderheit ist es uns etwas Unerwartetes gewesen gleich hernach zu vernehmen, auf welche öffentliche Weise von dem churmainzischen Hof bereits zu Regensburg mit der Sache, hervor- und vorausgegangen ist." Report of Regency, Nov. 11, 1794. [*Hanover Archives.*]

³ The pamphlet literature of the period of the French occupation (1803) contains this assertion of Pitt's interference in affairs of the Empire through Hanover. See below, as to Pitt's knowledge of Hanover's actions in the matter of the Demarcation Line.

The course of the Hanoverian ministry during the war had been the wavering, middle-of-the-road policy so often pursued by small states.¹ It had rented soldiers to England and paid money to the Empire instead of sending its quota. Its real safety lay in arranging directly with the French for its neutrality or in making itself count for enough to have its alliance sought by some larger power, to whom its respectable military strength and excellent situation would have been inducements sufficient to secure for Hanover protection on favorable terms. Instead of doing something like this, the Regency had pursued a policy which did not secure for the Electorate the protection and loyalty of either Austria or Prussia, and yet exposed it to the vengeance of the French, who chose to see in it a continental basis from whence the English could threaten the French borders. The realization of what this might bring on the peace-loving Hanoverians was keener in the minds of the Regency than it was in that of the absent ruler of the Electorate. He was bound to Austria in an offensive alliance; the ministry, on the other hand, were beginning to show clearly that their support of Austria was limited by narrow self-interest.

The proposition of the bishop-elect of Mainz for an Imperial peace at once found favor in the eyes of the Hanoverian ministry. It offered them an excellent opportunity of to extricate themselves from a war in which they had no real interest. An *Imperial* peace—that is what they wished, and their letters to the king became urgent. For once they were anxious for decided action. Hanover must become an advocate of the peace.

¹ See Fritz Friedrich, *Politik Sachsens; 1801 bis 1803* (Leipzig, 1898). This study shows Saxony pursuing the same policy.

It must act, and not let the matter drift or fall into the hands of unfriendly powers like Denmark or Sweden, both of whom had been suggested at Regensburg as mediators.¹

King George was clearly reluctant to move toward peace. In his letters to the Regency he deprecated hasty action, and would have Hanover agree to the Mainz proposition only when it was clear that all the other states favored it.² It was his advice that they wait till they found out what the elector of Saxony was going to do. A month later he spoke more as became the ally of Austria. "Wait for peace through the unified action of the Empire under the leadership of the Emperor."³ He issued a note to the Hanoverian representatives at foreign courts condemning the action of Mainz for the indiscreet and unprepared manner in which it had proposed peace. It was, he said, due to the Emperor or to the powers from whom the German Empire had received help and support [England] that they should be consulted rather than thus embarrassed. He was "of no other mind than that it would be most advisable to let the matter drop entirely for the present." The sacrifices of the Emperor should have earned the confidence of all, and when the proper time came the Emperor, as *Reichsoberhaupt*, with the co-operation of the Diet, was the one who should negotiate a peace.

The ministry, however, were of a wholly different view, simply because they did not want to see peace

¹ Regency to King, Oct. 24, 1794. For some light on the previous relations between Hanover and Denmark, see Ward, *Great Britain and Hanover*, chap. iii.

² Rescript of October 30, 1794.

³ Rescript of November 30, 1794.

longer delayed. Waiting for an Imperial peace on the motion of Austria was not to their mind, at least not when French armies were overrunning Holland. Consequently, much to the disappointment of the Austrian ministers, the Hanoverian cabinet took, through its representative at Regensburg, an attitude most favorable to peace.¹ They held that it was all in vain that the Empire was expending its strength when peace was the thing most to be sought.² So earnest was its desire that we have now to trace how, even despite its suspicions concerning Prussia's desire to gain preponderance in the Empire,³ it was willing to seek the protection of the peace Prussia had negotiated.

Some of the other German states had hardly waited the conclusion of the treaty before appealing to Prussia for her mediation in a peace with France.⁴ And it is equally true that Prussian agents were sounding the various states as to their attitude towards a neutrality policy before the Demarcation Line had been incorporated in the treaty. Austria was just as busy at Regensburg and at the various courts presenting the perfidy of Prussia's conduct and the danger of reliance on a power that had already sacrificed the Imperial interests beyond the Rhine. This rivalry, as has been noticed, pushed Prussia to the unseemly length of publishing, as a finished fact, a treaty to which Barthélemy had given but a general assent.

Beyond a doubt the efficacy of the essential principles of the Prussian-French treaty of Basel lay in the attitude

¹ See Häusser, i, 582, for exactly opposite statement.

² Vivenot, *Herzog Albrecht von Sachsen-Teschen*, ii, 135 *et passim*.

³ Regency to King, Dec. 5, 1794.

⁴ *Hist. Zeit.* (Bailleu), 1895, 211-212.

assumed toward them by Hanover.¹ Among the aims of the French in agreeing to the Demarcation Line was their desire to secure themselves from attack on the side of the recently conquered Holland and to make sure of the commercial advantages accruing to them through untrammelled trade with Hamburg, Bremen and Lübeck. Neither of these objects was secure as long as Hanover followed the policy of the English crown. It is clear then why the French insisted that the treaty must contain Prussia's promise to seize Hanover if the latter did not accept neutrality. As Hanover went, so went the fortunes of the neutral policy.²

The Hanoverians were thoroughly dissatisfied with the war policy which made them a cat's-paw for Great Britain, and exposed them, as a result, to the danger of a French invasion. The safety and interests of Hanover itself made it clear to the ministry that the establishment of a demarcation line would be to the advantage of the electorate. Their task lay in bringing their elector, King George III. of England, to agree to the separation of Hanover from the support of the English-Austrian opposition to France, and in allowing it to seek the protection of its hereditary rival in North Germany.

Influence direct and indirect had been brought to bear to make sure of Hanover's friendly attitude towards a separate peace. The Duke of Brunswick, who possessed the confidence of both courts, was moved by the Berlin cabinet to write to Hanover urging the Regency to ap-

¹ The influence of Hanover in determining the success of this Prussian scheme of defence for North Germany recalls the situation in 1778, when Frederick the Great proposed military measures against a possible French invasion. See Ranke, *Hardenberg*, i, 48-49.

² *Cal. Br. Des.* 11, No. 545, *Hanover Archives* (Von Lenthe's despatch of April 4, 1795).

peal to Berlin for Prussian mediation, and citing to them his own example.¹ However, the Hanoverian Regency did not seem in any haste to throw itself into Prussia's arms. True, it gave the Berlin cabinet most friendly assurances, but it went no further, except to urge that a clause be inserted in the impending treaty by which German princes who might desire the benefit of the Prussian neutrality would be allowed three months in which to decide. Meanwhile Hardenberg, in Basel, was assuring Barthélemy again and again that Hanover would certainly accede to the neutrality if it could once be arranged. What official basis there was for such an interpretation of Hanover's opinions does not appear from an examination of the archives at Hanover, except that such an examination reveals the fact already commented on, namely, that Hanover was a member of the peace party at Regensburg, and that their delegate, von Ompteda, was extremely hostile to Austria, and correspondingly disliked by the court of Vienna.² When the news of the treaty of Basel came to Regensburg, von Ompteda did not hesitate to proclaim Prussia the savior of Hanover.³

¹ The original of the Duke's letter is to be found in *Cal. Br. Des.* II, E, I, No. 1130 (*Hanover Archives*). It is most alarming in its tone. According to the Duke, Pichegru has orders from the Convention to seize Hanover and urges that King George cannot disapprove if, in view of lack of time, they capitulate at once or seek neutrality. Malmesbury, *Diaries and Correspondence*, iii, 209, mentions this letter.

² Goertz, the Prussian delegate at Regensburg, writes to Hardenberg April 21, 1795. " . . . Mais ce que surprenoit et confondoit encore le plus la cour de Vienne, étoit d'être informée qu'il y avoit eu à Bâle un homme avoué, M. de Hinuber, qui avoit eu le premier connoissance du traité et que les notes du ministre de Hanovre données à Berlin, de même que les correspondances entre les ministres de Hanovre et de Cassel se trouvoient entièrement en contradiction avec les assurances venues de Londres." Barthélemy, v, 215.

³ Barthélemy, v, 215. The utterances of this "Comitial Gesandter"

English policy under Pitt's leadership leaned, in 1795, more and more toward the Austrian alliance. In the months succeeding the treaty of Basel new subsidies were granted Austria, and a Triple Alliance, including Russia, was arranged, less, however, for use than for show.¹ The king, George III., was firm for a prosecution of the war, so insistent that at the close of the year the English ministry's message to the House of Commons expressing sentiments favorable to a peace with France, though in the king's name, did not, we are told, represent his real opinion.² From the moment of the introduction of the peace proposal by the representative of Mainz at Regensburg, George had been restraining the peace inclinations of his Hanoverian ministry. His communications had urged the ministry time after time to delay action on some pretext or other.

The ministry were, as has been shown, in favor of taking a definite stand for peace. On their own initiative they sent Hinüber³ to Basel to watch proceedings there. In the same independent spirit they had given Prussia assurances of a kind that made the Berlin statesmen sure Hanover would not oppose their scheme of neutralizing North Germany.⁴

seem to have been rather more strongly Prussian than his royal master or even the Hanoverian ministry approved.

¹ Stanhope, *Life of Pitt*, ii, 331.

² *Ibid.*, ii, 366.

³ These are among the important instances in which the ministry acted first and secured the king's consent afterwards.

⁴ Ranke (*Complete Works*, vol. xlvii, 284-285) in his "*Notiz über die Memoiren des Grafen von Haugwitz*" has the following paragraph:

"Von grosser Merkwürdigkeit sind die Verhandlungen mit England und Hannover, welche noch vor dem Abschluss des Baseler Friedens eröffnet wurden. Nach Haugwitz liess Georg III. den König von Preussen bitten, Hannover in seine Protection zu nehmen. Der han-

Hanover's representative at Berlin had secured, according to the statement of the Berlin cabinet, the introduction into the treaty of the clause which allowed other states within a period of three months to avail themselves of the benefits of peace.¹ The readi-

noverische Gesandte Lenthe bemerkte, dass Georg III. als Kurfürst von Hannover seine Politik von der trennen werde, die er als König von England beobachte. Friedrich Wilhelm II. gerieth in eine gewisse Aufwallung hierüber: denn die englische Politik sei ja die einzige Veranlassung seiner Friedensverhandlungen mit Frankreich. England habe ihn gezwungen, ganz gegen seine Gesinnung, mit der revolutionären Macht, die er an sich perhorrescire, in Verbindung zu treten. N'est-ce pas cet abandon que j'ai éprouvé de la part de l'Angleterre qui m'a enfin obligé à vaincre la répugnance que vous avez connue et que vous avez si bien jugée de m'approcher d'un gouvernement auquel je suis loin encore d'accorder ma confiance?; Zugleich aber erinnert sich der König, dass er immer die Sache des deutschen Reiches geführt habe, und da der Herzog von Braunschweig, der Vertraute seiner Gedanken, der ihn hauptsächlich mit zum Kriege veranlasst hat, sich für Hannover verwendet, so lässt er durch den Herzog dem Könige von England versichern, dass derselbe allezeit auf den Schutz von Preussen rechnen könne. Mais il s'agit maintenant de répondre à l'ouverture confidentielle du gouvernement d'Hanovre. Nous dirons, qu'après tout ce que j'ai fait pour l'empire germanique il n'est pas permis d'élever le moindre doute sur mes dispositions en faveur de cette partie de l'Allemagne, qui doit compter préféablement à tout-autre sur ma protection."

All the evidence in the archives at Hanover emphasizes the sharp divergence between the views of King George and those of his ministry on the subject of Basel. Ranke's inclusion of England, and even of George III., as parties to negotiations on behalf of Hanover, is the result of following Haugwitz's defence of his conduct. It was clearly to Haugwitz's interest to interpret, as in strict right he might, all action of the Hanoverian ministry as directed by the king of England. He was well aware of the separation between England and Hanover, but it was one of those things which Haugwitz's elastic conscience allowed him to recognize or deny as best suited the moment.

¹ Gronau, *Christian Wilhelm von Dohm* [Lemgo, 1824], p. 285, note 1, and Regency's report to King George of the instructions they had sent v. Lenthe at Berlin, Feb. 26, 1795, *Cal. Br. Arch. Des.* 24, No. 546. *Pol. Korrespondenz von Karl Friederick v. Baden*, vol. ii, p. 311. Also

ness with which they would accept the proffered peace may be inferred from this. Indeed, in January,¹ when the danger of a French invasion was imminent, they had gone farther, and authorized the Hanoverian minister at Berlin, von Lenthe, to accept *ad referendum* any arrangement negotiated by Prussia for Lower Saxony.² When the treaty of Basel came to them the Regency were ready to begin the campaign against their sovereign's inclinations.

The diverging interests of Hanover and England, as represented in the conflict of opinions between the Regency and King George, were evident in the matter of the Imperial peace; they again found clear expression in the king's disapproval of the ministry's policy as outlined to him in their letter of February 26, 1795. On that date they wrote him of the imminent

instructions to von Dohm, Sept. 11, 1795, *R* 67, *B* 18, vol. ii, pp. 69-75. (*Berlin Archives*.)

¹V. Lenthe handed in the memoire Jan. 27. The king of Prussia had responded to the appeal for protection by a plan of defense which joined Clerfayt's force and Möllendorff's army and the Hanoverian-English contingent. Haugwitz was particularly anxious to know what the London cabinet thought of Prussia's project. See despatch of Haugwitz to Jacobi-Klöst, Prussian minister in London. Feb. 9, 1795. April 7, Jacobi reports that after an audience with Pitt, he sees that Pitt is poorly informed as to the Hanoverian-Prussian peace negotiations. Pitt says that what von Lenthe has done must have been on his own authority. Jacobi assured him that it was done with king George's authority. Pitt was embarrassed and said it was always necessary to separate King and Elector. *R. XI, 73 England Conv., 167.* (*Berlin Archives*.)

²Regency to von Lenthe, Jan. 25, 1795. *Cal. Br. Des. 11, E, 1, 1130.* (*Hanover Archives*.) The inclusion of Hanover in a neutrality line was no surprise. Late in February, von Lenthe had reported that Prussia was insisting on the inclusion of Hanover in the desired neutrality (letter of Ministry to King George, Feb. 26, 1795.) April 4, von Lenthe wrote that Prussia's insistence on Hanover's neutrality was delaying the treaty.

danger of a French invasion. Hanover being unable alone to resist France, they considered Prussia the only refuge. Hesse-Cassel and Brunswick had been promised by Prussia inclusion in the peace then being negotiated, and von Lenthe had been instructed to ask at Berlin for the three-months clause which had been part of the treaty of Ryswick.¹ Could not the king be moved to agree to the Prussian treaty under such circumstances, the ministry asked?² The king's answer was clear. He joined the issue by disapproving the steps taken at Berlin as unnecessary, and by telling the ministry that, as far as he knew anything about the treaty negotiations, they were opposed to his fundamental principles, to which he would be true.³ The king seemed unmoved by the situation of his Electorate, which, unsupported by the Empire, or by its neighbors, who were themselves seeking Prussian protection, stood under the shadow of a French invasion.⁴

The ministry at Hanover were not pro-Prussian from principle. Had there been a hope of an Imperial peace under the leadership of Austria they would have been glad to seek safety that way. They could not view with favor a special Prussian treaty with France which would give Prussia an opportunity to dictate terms in a later Imperial peace. Such a peace would give Prussia an unwelcome preponderance when other states followed its

¹ See a preceding page for explanation.

² It is in this same letter they tell the king of Hinüber's mission to Basel. *Calenberg-Briefe, Designation 11, E, I, No. 1130.*

³ King's reply is dated March 17, 1795, and only approves the sending of von Hinüber. George III. considered the action of Prussia unconstitutional. The rescript of April 17, 1795, is in a similar strain.

⁴ The danger and measures taken to ward it off were reported to the king March 17. V. Lenthe at Berlin had been told to give Haugwitz the impression that King George would follow the action of the other states.

lead in the matter of special peace.¹ This statement of their attitude gave them common ground with their sovereign, and a certain amount of confidence thus established, they proceeded in their letters of April 16 and 18 to argue the question of ratifying Prussia's special treaty with France at Basel, April 5, 1795.

Their argument ran something as follows: If the treaty of Basel be viewed from the Prussian standpoint alone it simply restores good relations between France and Prussia. As Article V. does not yield any territory of the Empire or of its members, but refers such matters to a future convention, the treaty cannot be regarded as unconstitutional. As to the other members of the Empire, there were two stipulations—Article XI., which provided for securing peace for them, and Article I. of the secret articles which established the Demarcation Line. True, this peace is not consonant with the previous agreement of Prussia with King George and the Empire, nor is it well supported by historical precedents.² But the peace of Basel was not inimical to the king's interests (as elector), for it assured the safety of his lands, except the county (Grafschaft) of Bentheim; furthermore, they thought that could be saved when a general peace was arranged, as Hanover will in the meantime have Bremen and Ritzebüttel in its hands. The Regency argues that the acquiescence in the treaty was not inconsonant with the elector's duties as a prince of the Empire, for

¹ See their letters to the king, April 5 and April 12.

² They are able to cite the action of Prussia in the war of the Spanish Succession where she concluded a peace in 1713 at Utrecht, while the Imperial peace was concluded in 1714 at Rastatt and Baden. In 1679 at the Congress of Nymwegen the house Braunschweig-Lüneburg (Hanover) had concluded a separate peace at Celle before the Imperial peace was arranged.

they reasoned that Article II. of the treaty, which provided for the cessation of all hostilities including the furnishing of men and supplies against each other, related simply to France and Prussia, and therefore Hanover would be free to continue its support to the Imperial army. As to the arrangements in the secret articles concerning the states behind the Demarcation Line, the Regency did not think such provisions would affect Hanover. In truth, of course, they did not know the real contents of those secret articles. They had no contingent to withdraw from the Imperial army, and as the article provided that no state was to make any *new* arrangement, Hanover would be allowed to continue its *old* arrangements, namely, to pay its share toward supporting a military contingent, and to contribute the Imperial taxes (Römermonate). Thirdly, Hanover had in no way been a leader in the war, and was therefore not especially antagonistic to a special peace. The continuation of the war by England would not be affected by Hanover's acquiescence. All that was needed to secure to the Electorate the advantages of peace was a simple declaration from Hanover that the article as to the Demarcation Line was "absorbiert." If Prussia required it, a more specific statement could be given, and they outlined a communication whose wording is much like the letter in which King George finally expressed to Prussia his acquiescence.¹

Despite the pressure of the Regency and the urgency of Prussia expressed both at Hanover and in London, King George hesitated to give a definite answer. "He

¹ Later letters which take a still more favorable view of the Demarcation Line, may be based on the prematurely printed *convention additionnelle* mentioned in the *Papiers de Barthélemy*, vol. v.

was pleased to see his German states in safety, but he could not clearly see how he was to act without finding himself in collision with his principles as king of England. The king awaited with great impatience the reports from Hanover and Regensburg relative to the negotiations for peace with France.¹

The news of the additional treaty of May 17 aroused the English people still more, and increased their king's embarrassment. Haugwitz recognized that the action asked of Hanover did not square with the war policy of the cabinet of St. James and England's recently established relations with Austria. He watched with keen interest their attitude toward the treaty of Basel.²

The English ministry had sought to avoid all responsibility for the part of Hanover in the treaty of Basel.³ They advanced as their defense the distinction between George as king and as elector. This, however, did not satisfy several members of the House of Commons, and Putney interrogated Pitt concerning the matter, calling Pitt's attention "to the extreme astonishment of the public in the matter." Pitt answered that he had just come

¹ Dispatch of Jacobi-Klöst from London to Haugwitz, May 26, 1795. (*Berlin Archives.*) This was not, as Jacobi knew, consistent with the instructions of Ompteda at Regensburg where Hanover had given it to be understood that she would accept Prussian protection.

² King Fred'k Wm. III. (Haugwitz) to Jacobi, June 21, 1795. (*Berlin Archives.*)

³ Reports of Parliamentary debates are fragmentary. The best material was found in the files of the London dailies in the British Museum. The ministerial policy of subsidies to Prussia had been attacked as paying Prussia to defeat Kosciusko. Then when Prussia and Hanover conclude peace with a government considered by Pitt as too unstable to treat with, the opposition (Fox and Sheridan) refused to see the difference between the King of England and the Elector of Hanover and proposed to import Hanoverian ministers to advise the king rather than Hanoverian soldiers to defend him.

from an interview with the king and "the king could give the explicit assurance that the Elector of Hanover will never separate himself from the King of England." Direct as was the answer given by Pitt, continues the Prussian ambassador, Jacobi, it did not satisfy all the members of Parliament. The matter, however, could not be pushed farther without accusing the king of duplicity. To Prussian overtures, through Jacobi, the king presented the same opposition to all measures necessitated by the treaty of Basel. Best, the Hanoverian attaché, assured Jacobi that this was the king's final position in the matter.¹

If the action of Hanover interested Prussia, France and England, it interested no less the cabinet of England's ally, Austria. The activity of the Hofburg statesmen against the success of Prussia in securing the acquiescence of the states within the newly established Demarcation Line has been noticed. April 20, 1795, Morton Eden, the English minister at Vienna, wrote Grenville that Thugut still hoped to bring about a complete concert between the courts of Vienna, Hanover and Dresden. He would thus defeat the machinations of Prussia to effect a formal division in the Empire forcing Austria to a disadvantageous peace.²

Austria sought by every means possible to make its opposition to the treaty of Basel effective. Representations against it were made in London, Hanover and St. Petersburg and in the court of every South German prince. Even Thugut, who generally underrated the force of public opinion, resorted to the aid of periodicals

¹ Jacobi to Haugwitz, July 19, 1795,—*Berlin Archives, R XI, 73, England, 167, Bd. I.* The Prussians were trying to secure the evacuation by Hanover of Ritzbüttel and Cuxhaven.

² *F. O. Austria, No. 40 (Eng. Rec. Office).*

and pamphlets to meet the propaganda of the Prussians.¹ Promises were made to the Hanoverians of greater activity on the part of the Imperial army.² But the Hanoverian ministry, despite its often-expressed distrust of Prussia and her leadership in the negotiation of peace,³ was readier to take its place under the Prussian ægis than it was to trust the House of Austria. Von Ompteda, the ministerial agent of Hanover to the Diet of the Empire, showed himself at all times the active ally of Goerz, the Prussian representative, and Austria could only hope to secure the support of Hanover through pressure brought to bear on its ally, King George of England. At St. James they were assured of the support of the anti-Prussian wing of the cabinet.⁴

As has already been noted, both Prussia⁵ and the German ministry of King George were active in creating at St. James a sentiment favorable to the accession of Hanover to the neutrality of the "*convention additionelle*."

But the Hanoverian appeal to King George to accept the Demarcation Line was inspired by fear of the French armies then in Holland near the Westphalian boundaries, and by distrust in the English government, for which they would be suffering if war continued, rather than by any settled policy of adhesion to Prussia. The king,

¹ Vivenot, *Sachsen-Teschen*, vol. ii, pt. 2.

² Hardenberg (in Vienna) to the Hanoverian ministry, April 15, 1795. *Hannover Des.* 92, XXXVII, A, No. 1, 30, also A, 2, June 15. '95.

³ Cf. e. g. Ministry to King Geo., Dec. 5, 1794.—*Cal. Br. Des.* II, E, I, No. 1123. Reverse of this to Ompteda at Regensburg, June 17, 1795.—*Cal. Br. Des.* II, E, III, No. 66.

⁴ Grenville, Loughborough, Stormont, Cornwallis, Windham, Spencer, Duke of York, and Lords Howe and Hawkesbury. Jacobi to Haugwitz, April 24, 1795. (*Berlin Archives*.)

⁵ As to Prussia's use of English newspapers see Haugwitz to Jacobi, May 6, 1795.—*R*, XI, 73, *England Conv.*, 167. (*Berlin Archives*.)

against his own personal feeling, against the opposition of his ally Austria, and seemingly without reference to the opinions of his English ministry, yielded finally to the arguments of his German cabinet, and on the *last day*¹ of the three months of grace, the Hanoverian ministry were rejoiced by receiving their sovereign's consent. It was not a very hearty approval nor very generously granted, but it enabled them to satisfy the sharp demands of the Prussian cabinet, itself acting under pressure from the French government.²

It may well be doubted whether his Hanoverian subjects ever fully appreciated the struggle it cost George III. to comply with French demands, and at the same time put Prussia beyond danger of complications which might drive her back to the alliance she had abandoned. Several years later, when he was talking with the Hanoverian minister in London about subsidies from the Hanoverian army defending the Electorate, the king re-

¹Haugwitz told von Lenthe that July 25 was last day of grace. See v. L. to Han. ministry, June 25, 1795. *Des. 24, No. 547.*

²The King's rescript is dated Aug. 4, 1795, and was received at Hanover August 14. "Wir halten mit euch dafür, dass es bei der Wendung zu Regensburg dazu nicht kommen werde, dass der Berliner Hof von den in der Demarcations Linie begriffenen Reichsständen einer Erklärung begehren sollte. In einem solchen nicht zu verhoffenden Fall würde in dessen nach eurem Vorschlage die unverfängliche Aeusserung, dass man mit Vorbehalt aller Reichsständischen Zuständigkeiten bei dem preussischen Frieden acquiescire allen Umständen nach wolgeschehen können." The Ministry under date of August 20 say concerning this wording of the consent: "Insonderheit ist darin auch der Punkt der preussischen Verwendung auch eine so vorsichtige und angemessene Weise (?), dass damit weder zu viel eingeräumt noch angestossen wird, nur gerade herüber die diesseits dabei gehegte Meinung erfüllet und adoptirt ist." *Cal. Br. Des. 11, E, I, No. 1121.* Vivenot, *Herzog Albrecht v. Sachsen-Teschen*, ii, 2, p. 210 (Wien, 1866), makes the unpardonable blunder of speaking of England's accepting the Demarcation Line on behalf of Hanover.

plied to the Hanoverian appeal that each land must bear its own burdens. He added that he could but reproach his German subjects for not having risen in arms in 1795, to resist to the last all possible invasion. England, with the whole nation then (March, 1799) under arms ready to repulse the enemy, was showing the spirit King George had hoped his German subjects would exhibit.¹

In consenting to accept the neutrality arranged by Prussia, King George attempted to maintain a semblance of legality and loyalty to the tottering Empire, by reference to an Imperial peace to be negotiated under the Austrian leadership. The Hanoverian Ministry, recognizing the necessities of their situation as their supreme law of conduct, had raised no serious question as to what their fellow-states at Regensburg or the Emperor in Vienna would think.² Austrian leadership for North German states behind a Prussian Demarcation Line, was hardly within the realm of the practicable. Hanover, even more definitely than in the days of the Fürstenbund, was turning from Austria to Prussia. The situation created by Hanover's acquiescence in the treaty of Basel and by her vote at Regensburg, in July, 1795, that the King of Prussia should be associated with the Emperor in the negotiation of an Imperial peace, had created a political unity, in which there were possibilities—great possibilities—of Prussian-Hanoverian coöperation for the control of North Germany in opposition to the Austrian policy which the rest of the Empire was following.

¹ See the interesting promemoria of von Lenthe on the English attitude in 1799. (*Han. Arch.*) *Cal. Br. Des.* 11, E. I, no. 1126, Mar. 12, 1799.

² On the way the action of the Elector of Hanover was regarded, see letter of Lucchesini to Hardenberg, Oct. 17, 1795, in *Mitt. a. d. nachgelassenen Papieren eines preuss. Diplomaten* [Schladen]. Herausgegeben von L. v. L[edebur]. (Berlin, 1868.)

The treaty of Basel was the death-blow to the moribund German Empire. Vivenot has well said, "It was not until August 6, 1806, that the last German Emperor resigned the Imperial crown. He might just as well have done it April 5, 1795, for since the day of the treaty of Basel the crown had lost all its significance."¹ There was revealed an insight keener than that of his day and generation in the words of Malet du Pan when told that the treaty of Basel was concluded: "L' Europe s'en va."²

¹ *Albrecht, Herzog von Sachsen-Teschen*, ii, 2, p. 542, also pp. 140, 212 and 537, for similar statements. Similarly Bourgoing, 171-72. Treitschke (*Deutsche Gesch.*, i, 142) says Häusser's opinion to the same effect is suppressed in the third edition of his *Deutsche Geschichte* appearing posthumously at the time of the Austro-Prussian War in 1866.

Goerz, the Prussian agent at Regensburg, wrote Hardenberg April 21, 1795 (trans.): "By your Article XI the King has become the arbiter of the fate of Germany, and if we and France take advantage of it, as it is the permanent interest of both to do, the court of Vienna will not longer have a shadow of influence in all Germany. France will draw all the princes to her and reunite them to the system of Prussia who will not delay to become (d'être) her ally." Barthélemy, v, 213.

² Sayous, ii, 136 (Quoted by Sorel, *Revue hist.*, vii, 357).

CHAPTER IV

FAILURE OF THE CONVENTION ADDITIONELLE OF MAY 17, 1795

THE Regency¹ and the influential classes in Hanover had welcomed the establishment of neutrality. The danger of a French invasion in January and February, 1795, together with the well-known French view of Hanover as an English dependency, had almost created a panic in the defenceless province, for the disorganized and disheartened English and Hanoverian army was in no condition to meet the advance of the conquering French. Naturally, then, the cordon that Prussia promised to draw around the Electorate seemed a veritable boon.

It was, however, the misfortune of Hanover that peace arrangements with the French Republic were effective only in proportion to the military precautions taken to insure their observance. Nor had the Demarcation Line arranged at Basel proved to be the finality that the small states expected to find it. When they were urging Hanover to save herself by acquiescing in the Line, Haugwitz and his colleagues were pleased to speak of it as a safe refuge from being "sansculottized."² Now their own memorials to their master, the king, recognized the

¹The ministers in Hanover will hereafter be designated as the *Regency*. This is in conformity with French and English usage of the times and will make clearer discussions in which Prussian, English and Russian ministries are involved.

²Haugwitz's expression. *Cf.* Bailieu, i, 113.

negotiations at Basel as being arranged for a line much longer than Prussia could hope to maintain.

That the inviolability of the line was not earlier tested is to be explained by the delay in opening the campaign of 1795. All summer long the French troops, under Jourdan and Pichegru, lay along the Rhine, hindered in their plans by lack of supplies and by the dissensions at home which kept the government fighting for its very existence. With the fall of Luxembourg and the failure of the invasion in Bretagne, the forces of the Republic on the Rhine found themselves in a position to open the long-delayed campaign. Their first offensive movement, the crossing of the Rhine, led to a violation of the Demarcation Line in the most ruthless manner. Eichelkamp, on the east bank of the Rhine and within the line, was seized, despite the protest of the Prussian officers that such action violated the neutrality of the place. The French had reckoned well on the weakness of the Prussians and their unwise confidence in French protestations of loyalty to their obligations respecting the Demarcation Line. With Eichelkamp in their hands, they were able to threaten the Austrian communications and force the Imperial troops into a retreat.¹

The Prussian troops had practically all been withdrawn from the frontier into Prussian territory on the lower Rhine. The exception was the Prussian force under Hohenlohe, which had drawn a cordon around Frankfort. Here it was that the French and Austrians both violated the neutrality line, and General Hohenlohe, feeling himself too weak to resist, contented himself with dignified notes of protest until ordered by his government to withdraw into Franconia.² Everywhere the

¹ On the details of the above paragraphs see Häusser, ii, pp. 30 ff.

² Gray, English agent in Berlin, writes Nov. 3, 1795: "The French

French pushed forward, plundering right and left. The smaller powers of the region were in a panic,¹ and all who could, fled into neutral territory. How long that would offer protection seemed to depend only on the necessity in which the French might find themselves of violating it in order to forward their military operations.

The French had calculated rightly upon being able to violate with impunity their treaty obligations to Prussia. One might have expected at least a vigorous protest against these high-handed measures. Instead, the Prussian ministry informed the French representative in Berlin that they abandoned the Demarcation Line in the region of Frankfort.² General Hohenlohe, the Prussian commander, was ordered to withdraw his troops into Franconia. Such a revelation of weakness could but impress unfavorably the states who had trusted their safety to the much-vaunted Demarcation Line. The Demarcation Line which was to bring the benefits of peace to so large an area, and be the introduction to an Imperial pacification, had crumbled at the first shock of contending armies.

General Jourdan having announced the 10th of last month, while he was in the neighborhood of Frankfort, that he had received orders not to respect any longer the line of Demarcation except with regard to such Princes as had recalled their contingents, the situation of Prince Hohenlohe at Frankfort, with the corps of Prussian troops under his command became of course extremely delicate. The passage of the Main by the Austrians which had since taken place, has contributed still more to the embarrassment of that position. To avoid, therefore, being committed either with the Austrians or French this court has sent orders to Prince Hohenlohe to retire with his troops into the King of Prussia's dominions in Franconia." [*English Record Office.*]

¹ Häusser, ii, 35.

² Prussian note to Caillard, Nov. 25, 1795, quoted by v. Alvensleben. Cf. Bailieu i, 149 ff.

Even before this proof that the mere negotiation of neutrality was not synonymous with securing it, Hanover had recognized her especial danger. The Electorate's peculiar relation to England, and the presence within or near her borders, of English, Dutch, French emigré, and native troops, made her position far less secure than that of the neighboring provinces. It seemed necessary to the Ministry to ask in return for Hanover's accession a special acknowledgment from France, of the Electorate's neutrality. To secure this was the task the Hanoverian Ministry set Haugwitz after their acquiescence in August, 1795, and again and again they pressed on him the necessity—the plain duty—of the French to come out into the open with their intentions.

But a new light had dawned on the French government, and the very slowness with which Hanover had been brought to accede to the treaty, and its dilatoriness in enforcing neutrality, had aroused suspicions.¹ Instead of the "Gegen Erklärung," for which Hanover clamored, the Republic transmitted vigorous protests through Barthélemy at Basel and Caillard at Berlin, against the assembling of emigrants and Dutch around Osnabrück.

When these protests resulted in Prussia's causing the assembled forces to move, only to re-assemble in Oldenberg and Hanover, French complaints became threats. If the Dutch and French emigrants were not entirely removed from Hanoverian soil, the French troops would advance into the Electorate and undertake their dispersal.² Reports of the French agents exaggerated the

¹ Barthélemy, v, *passim*.

² Haugwitz to von Lenthe, Hanoverian minister in Berlin. Cf. latter's dispatch of Sept. 12, 1795, no. 546. (*Hanover Archives*.) French complaints during the summer of 1795 are to be found in Barthélemy, v, 338, 348, 372, 379, 380, 388, 399, 411, 414, 421 and 496. Especially vigorous protests are given on pp. 364 and 376.

strength of the troops behind the Demarcation Line.¹ The protests to Hardenberg, vigorous as they were, seemed, as far as the French could see, to be ineffective, and it was surmised that Hardenberg was not passing these protests on to Berlin. The necessity of having an agent in Berlin to speak directly to the Prussian Ministry on these matters was one of the reasons for appointing Caillard as French ambassador to Berlin.² It is evident that the conservative and moderate Barthélemy was restraining the more radical elements in the government at Paris. He was not willing to see the whole work of his negotiations swept away by an invasion of Hanover, however well justified the move might seem.³ In the opinion of the progressive party in Paris, the time had come for threatening summary action. Having found their protests to Hanover by the way of Berlin ineffectual, the French urged that there now existed the situation contemplated by the secret articles of the *convention additionnelle* of May 17, 1795, namely, that Hanover, not having observed the stipulated neutrality, should be taken *en dépôt* by Prussia. Prussian occupation, the French government thought, was the only way to compel the Electorate to conform strictly to the terms of the neutrality arranged for it. These threats (except those referring to secret articles of the treaty of Basel) were transmitted to Hanover through the Prussian Minister.⁴

¹ One agent estimates their strength at 40,000. Barthélemy, v, 376, 377.

² Cf. note 1, and Barthélemy, v, 412, 413.

³ Barthélemy, July 18, vol. v, 377.

⁴ Haugwitz not only kept Hanover alarmed by communicating French threats, but he used the courts of Hesse-Cassel and Osnabrueck to convey to Hanover rumors of impending danger from French invasion. Ministry to King George, Oct. 4, '95, no. 1130. The danger was undoubtedly real. Cf. Ompteda's dispatch and Ministry's reports to king in no. 1126a, I, *passim*. (*Hanover Archives*.)

There was no reason to doubt that the French government maintained its hostile attitude toward the German lands of the King of England. To the delay in giving the *Gegen-Erklärung* was now added the further source of uneasiness mentioned above—the violations of the Demarcation Line.

Here it may be well to call up what some may deem a "neglected factor" in the history of the period—the attitude of the Elector himself. It is in the way he treats this real danger to the Electorate that George III. shows how much his view of things continental is that of an English king rather than that of a minor German prince. He will not be hurried in the removal of the objectionable Dutch, English and emigré troops. He seems to consider the danger from France more imaginary than real, and he distrusts Prussia thoroughly.¹ One royal rescript of this period still further illustrates this insular English attitude assumed by King George. The Regency in Hanover was thoroughly alarmed by the reports² from their envoy in Berlin, von Lenthe, and so, at the suggestion of the magistrates of Bremen,³ they timidly proposed to their sovereign that their Electorate negotiate directly in Paris for its own neutrality.⁴ To this appeal the King-Elector answered with a largeness of spirit justified by his own location, that he would not approve a special treaty with the French until all other measures had failed.⁵

¹ Rescript of Sept. 25, 1795. (*Hanover Archives*, no. 1130.)

² Despatch of Sept. 12, 1795, no. 546. (*Hanover Archives*.)

³ Sept. 29, 1795, no. 1130. Bremen was at this time occupied by English and Hanoverians. Subject of complaint by both French and Prussians.

⁴ October 1, 1795, no. 1130. (*Hanover Archives*.)

⁵ Rescript of October 20, 1795, no. 1130.

What the measures might be, what the ultimate decision would be, rested less with the King-Elector, less with his ministry in Hanover, than it did with the power which had pledged itself to take Hanover in possession, if it did not so act as to relieve France from all fear of attack from that side. The mere acquiescence in the terms of the treaty of Basel did not fulfill the terms of agreement between Prussia and France. Hardenberg did not fail to point out this distinction between acknowledging the peace and promising to observe its terms.¹ Much as Prussia's freedom from complications with France depended on its ability to control Hanover, its claim to the confidence of all the smaller states and of its former allies depended equally on its controlling it without resorting to the extreme measure of occupation.

The source of the French discontent, as has been mentioned, was the remnant of English and Hanoverian troops in and around the town of Stade, the collection of a Dutch and French emigrant corps at Osnabrück and the occupation of Hamburg and Bremen. The reluctance with which the Elector-King moved in the matter of dispersing these camps might well justify French fears that these hostile troops were only waiting for some marked success of the allies on the Upper Rhine to make a forward movement against Holland. The total strength of the disturbing forces is estimated at about 11,000 men, of which 4,500 were English and 3,000 French emigrants.² The French government, though not over particular about seeing that its generals observed the Demarcation Line, insisted on the strict neutrality of the

¹ Ranke, *Hardenberg*, i, 329, 330.

² R. 67, B. 18a, vol. I, p. 56. (*Berlin Archives.*)

states behind it. The Committee of Public Safety held that their interests in Holland were so much endangered by the contumacy of the Electorate that they must take it on themselves to bring Hanover by force of arms to a less belligerent attitude.¹ With the forward movement of their troops the subject became of still greater import to the French, and Prussian occupation was again urged as the only measure consonant with Prussian honor and at the same time satisfactory to the French.²

All this pressure, but without any mention of the secret articles of the treaty of Basel,³ was passed on by Haugwitz and the Prussian ministry to Hanover by way of Ompteda, the Elector's representative at Berlin. Knowing the close relations between the electoral courts of Hanover and Saxony, the latter power was moved by Prussia to make a most pressing appeal to Hanover to observe the neutrality in full.⁴ King Frederick William II. and his ministry were bending every energy to extricate themselves gracefully from the predicament in which they were put by their obligation to force Hanover into neutrality when the relations between the two powers did not justify such action. For, as Ranke points out, the relations between Prussia and France were dependent on the Prussian ability to protect the French in Holland from an attack on the side of Hanover.⁵

¹ Committee to Barthélemy, Aug. 22, 1795. Bart., vol. 5.

² Committee to Bart., Sept. 10. vol. v, p. 450.

³ The secret articles of Basel were not known in Hanover until May, 1799. Wohlwill in *Hist. Zeit.*, 1884, 402.

⁴ Report of the Han. Ministry to King, Sept. 27, 1795, *No. 1130. (Hanover Archives.)* On Saxony's policy in this period the reader is referred to Paul Hassell's article "Kursachsen und der Baseler Frieden, 1794-95," in *Neues Archiv für sächsische Geschichte*, Vol. XII (1891), and to Friederich's study, *Politik Sachsens, 1801 bis 1803* in the *Leipziger Studien aus dem Gebiet der Geschichte*, vol. iv, pt. iii.

⁵ Ranke, *Hardenberg*, i, 330.

By the first of September the matter had become of prime importance to Prussia. The French had begun late in August the long-delayed forward movement. The vigor and success of their movements, the well-known independence in action of the French generals and their annoyance at the presence of English and Dutch troops on what they considered English territory that should not have been neutralized, the ruthless disregard the armies manifested for the Demarcation Line, the threats of the Committee of Public Safety, all these considerations might well have roused King Frederick William II. His personal interest¹ in having the danger to the Electorate presented once more to the Regency at Hanover led to a proposal, signed by both Haugwitz and von Alvensleben, to send Wilhelm Christian von Dohm, the Prussian agent in Halberstadt, post haste to Hanover.² The proposition was at once approved by the king.

The instructions given the man who was chosen as capable of stirring the Hanoverian ministry to action are significant. Rightly read, they again emphasize the fact that Prussian policy was determined, in the first decade after Frederick the Great, not so much by a Hertzberg, a Haugwitz or a Hardenberg as by the geography of its scattered domains, especially those lying west of the Elbe.³

¹ Note in king's own hand to Lecoq, dated Sep. 8. Cf. *Berlin Archives, sup. cit.*

² Note is endorsed by the king, Sept. 10, 1795. It embodies a draft of the instructions. The king again urges haste. V. Dohm had been sent to Hanover by Frederick the Great (May, 1785) to urge Hanover to send a delegate to Berlin to arrange the basis of the Fürstenbund. Cf. von Dohm's *Denkwürdigkeiten*, iii, 73 ff.

³ See a forceful paragraph in Max Duncker's review of Ranke's *Hardenberg, Preuss. Jahrbücher*, vol. xlii, 570.

Perhaps more to the point are the following significant words in the

At the opening of the instructions the Hanoverian ministry are in all justice reminded that the very neutrality they were violating had been arranged at their request. The introduction of Article XI. into the treaty of Basel is asserted to have been the direct result of the Hanoverian note of March 2, 1795.¹ Nor was this the limit of Prussia's exertions. She had stopped the forward movement of the triumphant armies of the Republic, before which the English and Hanoverian generals despaired of making a defense in the spring of 1795. The return for all this is Hanover's continued occupation of Ritzbuettel, Cuxhaven and Bremen, and allowing the English to gather Dutch troops on Hanoverian soil—and this despite Hanover's "remarkable answer" acquiescing in the peace. Now Prussia, continued von Dohm's instructions, could not longer tolerate a condition which threatened the safety of her own states. If Hanover does not act, Prussian troops will be sent in to make an end to this assembling of foreign soldiers, or the Demarcation Line will be re-arranged to protect Prussian territory alone. Prussia has no intentions hos-

Prussian reply of May 10 to Caillard's note of April 26, 1795 (see Häusser, ii, 71): "il est presque superflu d'observer que ce n'est qu'en faveur de ses propres États que le Roi est entré dans les susdites stipulations (concerning neutrality and the Demarcation Line); que c'est uniquement leur repos, leur sûreté parfaite pendant la durée de la guerre actuelle, qu'il avait en vue à cet égard. . . . Si d'autres pays de l'Allemagne en profitent, c'est leur situation topographique qui en est la seule cause, puis qu'ils se trouvent comme enclavés dans ces mêmes États." Bailleu, i, 68, footnote 1.

¹In this article France promises to accept the good offices of Prussia for those states of the Empire which desire to negotiate with France. France for a period of three months from ratification of the treaty will not treat as enemies the states on the right bank of the Rhine for whom the king intercedes. It is this last part which, as has been before mentioned, was the subject of the Hanoverian note of March 2.

tile to Hanover's august ruler, but they must insist that the French should be given no occasion "for the least shadow of suspicion."¹

A week later von Dohm was in Hanover, busy with ministerial conferences. The ministry there had already been urging on the king of England the necessity of his German lands complying with the Prussian-French demands. They were duly impressed with the seriousness of the alternatives offered by von Dohm, but they were not so humble as might have seemed desirable to the Berlin ministry. One man, at least, put up an energetic protest against French interference in affairs behind the Demarcation Line. Rudloff, the Regency's secretary and adviser, expounded, in opposition to von Dohm's representations, the view that all the treaty of Basel promised on behalf of the neutral states was that no offensive measures should proceed from behind the Demarcation Line. That is to say, if Hanover wished to gather troops as a defensive measure, it was no affair of the French Committee of Public Safety.² Rudloff even assumed a belligerent tone, and spoke about not fearing the French troops that might attempt an invasion. This view, that the Electorate was at liberty to take any measures it might deem defensive, coincides with the stand the Hanoverian ministry took in the opening conferences. And there was a show of justice in the view that his own troops within his own Electorate should be at the disposal of the King-Elector. But, as the course of this monograph shows, this was but an-

¹ The instructions are dated Sept. 11, and von Dohm is told not to qualify them in any way, and he is to demand a categorical answer.

² For the French view of their right to interfere behind the line established by their consent *cf.* Napoleon's instructions to Beurnonville in Dec., 1799, Bailleu, i, p. 518.

other instance when neither the King-Elector nor the Regency in Hanover were determining factors. Prussia had most at stake.

George III. on September 25 sent the necessary orders for the expulsion of the emigrant and other corps, and the Regency hastened to execute them.¹ This news and the Regency's assurance that Hanover would never allow any hostile demonstration to proceed from behind the Demarcation Line, and would evacuate the Hansa towns,² was considered satisfactory at Berlin, and von Dohm left Hanover. Not until at the command of the Berlin ministry he had stated clearly that Prussia did not, now that Hanover's army was dismissed, assume to guarantee the neutrality of the Electorate.³ Despite the explicitness of von Dohm—and he could be explicit when it was necessary—Rudloff insisted to the end that Prussia's guarantee of Hanover's neutrality should come as a substitute for the military measures now abandoned. And Rudloff evidently came to believe that Prussia had done what he demanded,⁴ for in the following spring it is his obstinate insistence, at least it is the insistence of the Hanoverian Regency on this view, that delays the organization and provisioning of the Observation Army.⁵

The King-Elector's proclamation as to the expulsion

¹ King's rescript in *no. 1130 (Han. Archs.)*.

² Note verbale handed in by von Ompteda at Berlin, Oct. 2, 1795. This was despatched from Berlin to Hardenberg in Basel that he might answer Barthélemy and the French government satisfactorily. *Berlin Archives* vol. cited above.

³ See instructions to v. Dohm, October 9, and his report of Oct. 18.

⁴ See von Dohm's report of Oct. 3. (*Berlin Archives*, as above).

⁵ It ends in a rupture of the personal relations between von Dohm and Rudloff, two men too nearly alike in mind and training ever permanently to agree.

of his English troops and the auxiliary corps of French and Dutch had been obtained in haste. It was executed at leisure. The unwillingness with which the king of England saw himself forced to do as France, speaking through Prussia, desired, is partially shown in this dilatoriness in doing what he had promised. As late as December a majority of the English troops were still in Hanover. The French were still suspicious and watchful.¹ Prussia was urgent. As the pressure was increased, as the terror was more or less vividly conjured up by von Dohm, the embarkation of troops would be hastened. Then it would grow slack, and the English transports would fail to be on hand. As late as February, 1796, there were still English officers in Bremen.²

The seriousness of the situation in the fall of 1795 gave occasion, in connection with von Dohm's mission, for an exhibition of the strong particularism still prevailing in the principalities and counties composing the Electorate. The slowness of the Regency in conforming to the stipulated neutrality can be traced to but one definite source—the reluctance of the king to remove troops that might later be useful to the allied cause. The Hanoverians, loyal as they were to their distant sovereign, were alive to the dangers they ran by allowing the Stadtholder to recruit within their borders, and by Hanover's general neglect of neutrality in the face of such a ready and suspicious enemy as France.³ Von

¹ Delacroix to Barthélemy, Dec. 10, 1795. Barthélemy, v, 517.

² Reports of Prussian envoy in Bremen (v. Rump) at the end of volume cited above in *Berlin Archives*.

³ The Hanoverian troops were put on a half mobile footing and so disposed, partly toward Hessen and partly toward Westphalia, that they could be readily (within 48 hrs.) concentrated on either frontier. The staff officers were simply furloughed. Reports Dec. 15 and 17, 1795 in 1126a I (*Han. Archives*).

Dohm felt encouraged at the expressions of the leading officials of Calenberg and Lueneberg. They seemed to feel grateful for Prussia's efforts to ward off danger, and in evidence of this were urging prompt action on the Regency. The estates of Bremen-Hoye-Diepholz took occasion to offer the Regency similar advice. More noteworthy is the action of the estates of Calenberg, the principality which includes the cities of Hanover and Göttingen. The estates had already given proof of their independent view of things touching Hanoverian policy. In 1794 they had set forth the position of the "Calenberg Nation" and the "Göttingen Nation" on the subject of the attitude to be assumed toward the French Revolution. They were still under the dominance of von Berlepsch, the agitator who had fathered the resolutions of 1794. The danger of a French invasion was von Berlepsch's opportunity. In a special session (Oct. 31) they met in the city of Hanover and passed resolutions urging the ministry to ensure the Electorate's safety by doing all that strict neutrality required. Not content with an urgent presentation of the ministry's duty to secure the country's peace and quiet, they ended their resolutions with a threat to appeal to the king of Prussia and the Duke of Brunswick to call the diet of the Circle of Lower Saxony. This body might be expected to overrule the ministry, to the end that Hanover might no longer be exposed to danger by being drawn into England's struggle with France.¹

But other measures brought forward on a larger stage were destined to secure the safety of Hanover and the

¹A copy of their resolutions of Oct. 31, is enclosed by von Dohm Dec. 4, 1795. It was given him by a member of the estates under promise of secrecy. Cf. *Berlin Archives*. R. 67, B. 18 a. vol. i.

neutrality policy of Prussia. Several years later (1799) Haugwitz, in a resumé of Prussian policy since 1794, said that the treaty of Basel only definitely established peace between France and Prussia—"all the rest was conditional (*hypothétique*).” We need not stop here to consider whether Haugwitz thought in May, 1795, that the treaty of Basel and the “*convention additionelle*” were wholly conditional or was brought to that view by French and Austrian disregard for his cherished Demarcation Line. In either case the conviction that the work of Hardenberg and Barthélemy was not a finality must have come early. The interested German states had no sooner accepted the proffered neutrality than the cabinet at Berlin, began hinting at Paris that it would be well to negotiate a new line. Shortly afterwards the project of a composite army to defend the line was suggested at the different courts of North Germany.

To the negotiations leading up to the French-Prussian treaty of August 5, 1796, and to the Prussian-Hanoverian agreement resulting in the formation of an Observation Army the following chapter will be devoted. With the establishment of a new demarcation line and an army to make it respected, we may begin to speak of neutrality as “a system.”

CHAPTER V

FOUNDING NEUTRALITY AS A SYSTEM

THE hopes of an Imperial peace, for which Prussia's treaty with France at Basel was to have been the introduction, had gradually faded during the summer and fall of 1795;¹ the worthy ambition of Frederick William II. to figure as a prince of the peace had come to naught. As was pointed out in a preceding chapter, the king had expected to profit from the general demand for peace, and to prove by the success of his own negotiations with France that he was the proper person to mediate between the Republic and the rest of Europe. Thus, on the unsteady foundation of his neighbors' patronage, the king had hoped to restore the influence of Prussia, not only in German, but also in the wider field of European politics. Instead of the expected plaudits, he had heard himself denounced by his former allies as a base betrayer of the common cause and the disrupter of the old Empire. While Europe thus looked askance at the statesmanship which was guiding the Prussian policy, the emissaries of Austria were busy within the Empire, arousing suspicion everywhere by dwelling on Prussia's alleged session of the left bank of the Rhine. Thus, despite all the letters and conferences of Hardenberg,² a large number of

¹ Häusser, ii, 45. Hardenberg acknowledges the failure in his farewell note to Barthélemy, Dec. 9, 1795. Barthélemy, v, 518.

² The Austrian view of Hardenberg's activity in Vivenot, *Herzog Albrecht von Sachsen-Teschen*, ch. on "*Baseler Friede*."

the minor German States were made so distrustful of Prussia's motives that they declined to ask her mediation with France in their own or the Empire's behalf. It was evident that Francis II. at the head of the moribund Empire still occupied the place of vantage in Germany over the head of the Fürstenbund.¹

When we turn from the situation in Europe and the German Empire to the still narrower field bounded by the first Demarcation Line, we find matters no more encouraging; for the territory within the cordon of neutrality had proved more than Prussia could protect. The early violation of the line by both French and Austrian forces had led Prussia to abandon that part of the neutralized territory around Frankfort on the Main²; to her inability to bring about a peace on behalf of the states not neutralized she had now added the failure to protect those which had manifested their faith in her by seeking the protection of her neutrality. The situation of affairs was such that the Prussian cabinet could not with safety or propriety long delay in finding either a way to continue the neutrality arranged at Basel or some proper substitute for the policy there inaugurated.

The consideration of any new policy on the part of Prussia, directs our eyes at once to the situation in Paris after the treaty of Basel. Since the spring of 1795, the party of aggression had gained the ascendancy in France³

¹ On this struggle between Austria and Prussia to control public opinion, cf. Vivenot, *sup. cit.*, chapter on "*Die öffentliche Meinung zur Zeit des Baseler Friedens.*"

² October 26, 1795, Bailieu, i, 29. For Lucchesini's version of this violation see [Schladen], *Mitt. a. d. nachgelassenen Papieren eines Preuss. Diplomaten*, 341, 342. (Berlin, 1868.) "Je n'ai jamais rien espéré de la ligne de démarcation."

³ Ranke, *Hardenberg*, i, 337 ff.

and sweeping on in the full tide of aroused national feeling, had passed, as the last great act of the convention, a resolution to make the Rhine a French boundary. This meant war—a great struggle, not the hoped-for peace. It meant to Prussia the definite loss of her provinces on the west bank of the Rhine, whose final disposition had been postponed at Basel until the general pacification. The party of the moderates in France had been silenced by the cannon of Napoleon in the streets of Paris, and with the disappearance of that party disappeared the hope of a general peace. The triumph of the aggressive party in France endangered the neutrality which Prussia had so confidently asked, and even forced, her neighbors to accept.¹

Nor was the outlook any more cheerful viewed from the standpoint of Prussia's internal condition. King Frederick William II., never the real master of the situation, had in the last year or so abrogated more and more of his nominal control. His dissipations were beginning to tell on an originally powerful frame, and his health was on the decline that led to the grave. Madame Lichtenau, long content with holding the King's fancy,

¹ Massenbach, *Memoiren*, ii, 195 (Feb., 1796): "An einem seidenen Faden hängt das Schicksal d. nördlichen Deutschlands. Wahrscheinlich erwarten die Franzosen nur eine Gelegenheit um auf dieser Seite loszubrechen, und den Zuvorkommenkrieg zu spielen wie ihn Friedrich II. vor vierzig Jahren spielte—und glaubt man etwa, dass die französische Regierung von den erneuerten Vorschlägen des Lord Elgin, wovon viele Privatpersonen unterrichtet sein wollen, nicht unterrichtet sei? Wird die in Hannover negocierte Anleihe von zwei Millionen Thaler der französischen Regierung nicht als ein Beweis dargestellt werden, dass wir von England aufs Neue Subsidien ziehen?—Hofft man etwa, dass dieselbe die Schmähungen desjenigen Staatsministers der den Baseler Frieden geschlossen, und der ihn nun selbst verwirft, nicht in Erfahrung bringen sollte?—Glaubt man etwa, dass der Citoyen Caillard die Rolle eines Taub- und Blindgeborenen in Berlin spiele?"

now aspired to be the Pompadour of Prussia.¹ The Prussian cabinet was not a unit in regard to the policy to be pursued, and the strife of its factions weakened confidence in its policies and utterances; the great class interest in privileges of freedom from taxation stood solidly in the way of any vigorous policy that must necessarily endanger their exemptions; the army itself was more interested in peace than in war—the soldiers preferred furloughs to fighting, and the officers were under the temptation of the extra money which the furlough system put in their purses.²

To the question as to what should be done there were three evident answers. First, a statesmanship which considered the probable result of the situation might well have held that the true policy for Prussia was to take her place in the states-system of Europe, which was now threatened by the revolutionary Republic. Towards such a policy of joint action with Prussia's former allies the English ambassador pressed King Frederick William II. almost constantly, by offers of subsidy, while that monarch had himself come to feel that the patriotism which led his advisers and generals to urge on him a peace policy was mistaken.³ A second plan was to abandon the mainte-

¹ In a despatch of Nov. 19, 1797, Lord Elgin, writing from Berlin, gives an interesting account of conditions at the court of King Frederick William II., during his last days. He dates Madame Lichtenau's new ambition back to a trip to Italy in the summer of the preceding year, when she had learned about Louis XIV. and Louis XV. (*Eng. Rec. Office.*)

² Cf. Bailleu in *Hist. Zeit.*, 1895.

³ Lord Elgin says of a conversation he had just had, "One of the many pieces of information which Prince Hohenlohe gave me in the course of the visit was that the king personally had long been in the belief that England had really been desirous of counteracting him in the war against France and attributed to this cause even the bad success of

nance of neutrality for all North Germany, and simply extend a protecting cordon around Prussia's own states. But this way meant danger and disgrace; for Prussia's Westphalian lands were so enclaved that the surrounding territory must be neutralized and guarded. Otherwise she would have denied, not the responsibilities of any fore-ordained mission, but the veriest duty arising from the position of her own provinces. Lastly, the policy begun at Basel still offered possibilities.¹ The opportunism which had governed Prussia's policies pointed towards the negotiation of a new demarcation line and the organization of a force to defend it. This successfully accomplished, Haugwitz might consider himself as the founder of neutrality as a "system." The peace of Basel would then fall into an honorable place as the first step toward withdrawing North Germany from the ravages of war. Neutrality assured, Prussia could husband her resources and secure indemnification for her territorial losses in the struggle just closed. This course of diplomatic speculation it was into which Hertzberg, Haugwitz and Hardenberg in turn steered the Prussian state.²

the operations in 1794, and that it was only within these few days that he had been undeceived in this important point. That the king was now convinced of the nature of the proceedings under Marechal Möllendorff and that disregard was paid to his orders not from motives of treachery, but from impressions of false patriotism on the part of those who directed the campaign." Elgin's despatch of Feb. 23, 1796. [*Eng. Rec. Office.*]

¹ The three possibilities, as Haugwitz viewed them from the standpoint of 1796, are given in a conversation with Caillard. Cf. latter's report of March 26, 1796, Bailleu, i, 437, 438.

² Cf. Max Duncker in *Preuss. Jahrbücher*, 39, 571. The Austrian chargé, Hudelist, writing in Sept., 1799, says that no answer from the Prussian government would give any measure of its intentions, "car comment sera-t-il possible tant que sa première maxime sera d'agir selon les circonstances?" Bailleu, i, 557.

Hardenberg, who had remained in Basel awaiting the opportunity to negotiate with Barthélemy in behalf of the minor states seeking Prussia's mediation, had expected the triumph of the moderate party in Paris.¹ By August, 1795, however, it was clear to him that the work of the *convention additionnelle* of May 17th was far from final. Thus the necessity of either determining a new line, or abandoning, by agreement with France the attempt to maintain neutrality, was signally evident² to him and to the king, and the latter was only awaiting the settlement of affairs in Poland before determining what action he would take.³

Hardenberg's views on the policy to be followed were decidedly in favor of vigorous action.⁴ His birth and training as a North German of the Circle of Lower Saxony, and his clear vision from the standpoint of a Prussian statesman, kept his eyes ever on the Lower Rhine as the danger point. It was in this region, then, Hardenberg thought, that Frederick William must face the French. It was the king's duty to oppose them with vigor. Make them feel, wrote Hardenberg, that reckless action on their part would drive Prussia into open opposition. Close action with the circles of Upper and Lower Saxony, and a part of Westphalia would, in Hardenberg's opinion, make a formidable confederation, on whose behalf Prus-

¹ Ranke, *Hardenberg*, i, 314-320.

² Bailleu, i, 18.

³ *Ibid.*, i, 20.

⁴ Hardenberg to king, Dec. 5, 1795. Bailleu, i, 34 ff. In the inaccurate and garbled account of the neutrality policy given in the *Memoires d'un homme d'etat*, iii, 374 ff, and 222-225, Hardenberg is credited with the idea of a new demarcation line. Haugwitz, it is said, took up the idea and tried to get rid of the originator by sending him on a mission to Lower Saxony. As will be seen later, it was on this mission (?) that Hardenberg did some very effective work for the neutrality system.

sia could easily secure from France a recognition of neutrality. Such an arrangement would rescue Hanover from its endangered position and Prussia, disregarding the rest of the Empire, could then unite around itself the North of Germany,¹ and make itself a power to be respected.² This was the doctrine of an egoistic Prussian policy.³ With such a view the hopes of the preceding April and May have little in common. Prussia was to go forward under the assumption that the Empire was dissolved, and that there remained nothing for each state except to look after its own interests and safety with "egoistic selfishness" ("egoistischer Eigennutz").⁴

The current of events in the fall of 1795 gave force to Hardenberg's suggestions. The relief felt in Berlin at the success of von Dohm's mission to Hanover in September, 1795, could have been but short. The French complaints about the troops, emigrant, Dutch and English, on Hanoverian soil, were as vigorous as those which had been made before Hardenberg told Barthélemy of Hanover's acquiescence.⁵ Furthermore, French promises to observe the Demarcation Line on the side towards Westphalia were of uncertain value with

¹ "Et la maison Palatine."

² In the *Memoires d'un Homme d'Etat*, vol. iii, Hardenberg is represented as the instigator of von Dohm's mission to Hanover in the fall of 1795, and as the Prussian statesman who suggested the second demarcation line and was in general the sponsor for the neutrality of Prussia. Cf. e. g., vol. iii, 278-279.

³ See Bailleu's essay in *Hohenzollern Jahrbuch* for 1897. He gives some suggestions for the interpretation of this period of Prussian history.

⁴ Transliteration of Haugwitz's words to von Ompteda. See latter's despatch, August 20, 1796, no. 1126a I. [*Han. Archives*].

⁵ Oct. 12, 1795. Suspicion is very evident in Delacroix's letter to Barthélemy, Dec. 10, 1795. Barthélemy, v, 517.

the Jacobin party in the ascendant;¹ and with the promise was coupled a disagreeable condition, to the effect that the king of Prussia must assume full responsibility for the dispersion of hostile forces in either Hanover or Westphalia.

Though not ready to go to the extreme measure mentioned in the secret articles of the *convention additionnelle*,² the ministry at Berlin felt the necessity of some sort of assurance that France meant to observe the neutrality of Hanover.³ The Electorate itself had long clamored for a "Gegen-Erklärung" from France, after the Hanoverian proclamation accepting the Demarcation Line, and even if the war fever in Paris should abate,⁴ the generals of the French armies were still thought insubordinate enough to be dangerous.

Prussia would have been willing to continue its negotiations through Hardenberg at Basel. The French government, however, had brought it about that Caillard was to represent them more directly at the court of Berlin.

¹ Hardenberg to the king, Dec. 5, 1795 (*sup. cit.*).

² That is, to take Hanover *en depot*. This is the time when, according to Vivenot, the periodicals under Prussian control were preparing public opinion for Prussian annexation of Hanover. See his evidence in *Herzog Albrecht von Sachsen-Teschen*, ii, pt. 2, 328 ff. He goes on to assert that a greater share of the Hanoverian statesmen were in Prussian pay, and that the University of Göttingen was an efficient Prussian instrument in moulding Hanoverian opinion. The main value of Vivenot's work is that it shows how men of that time, as well as of a later, might put a hostile construction upon the Prussian actions and thus stir up such distrust in otherwise friendly courts as to control their actions and thus react on what was done and said at Berlin.

³ Cf. instructions to Sandoz-Rollin, Dec. 25, 1795. Bailleu, i, 40. Hardenberg's distrust of the Jacobin regime finds free expression in his letter to the king on Dec. 5, 1795. Cf. Bailleu, i, 36.

⁴ Sandoz-Rollin, the Prussian minister in Paris, reports Dec. 28, 1795, that there is in Paris a strong demand for peace. Bailleu, i, 41.

Among other reasons suggested for their insistence on having a representative near the person of the king, was the suspicion that Hardenberg was not transmitting their protests against Hanoverian violations of neutrality.¹ Under obligations to send a representative to Paris, Frederick William selected Freiherr von Sandoz-Rollin, formerly ambassador to Spain. As in the sending of Caillard, so in the instructions of Sandoz, the position of Hanover was made a matter of special mention. As far as material at hand allows one to judge,² Sandoz's most positive duty was to secure a direct acknowledgment of the oft-violated Demarcation Line, and thus insure Hanover and North Germany against French incursions; the importance which Prussia attached to such an acknowledgment is attested by the insistence with which Sandoz is directed to press the matter.³

The French Directory itself was not of one mind on the attitude to be assumed toward the Prussian insistence on the recognition of the neutrality of North Germany. The general feeling plainly stated was that the French had been more hampered than helped by a line which limited their operations in the South and sheltered their enemies in the North. If it were an advantage to Prussia to secure the neutrality of Westphalia and Hanover, it was a neutrality the French proposed to sell at the highest price. The condition *sine qua non* of a new agreement was the Prussian recognition of the French right to the territory on the west bank of the Rhine. Even with that condition complied with, the situation of

¹ The archives at Berlin show this suspicion baseless.

² Summary of instructions in Hüffer, *Diplomatische Verhandlungen*, i, 229.

³ Dec. 25, 1795, and January 29, 1796. See documents in Bailieu, i, 40-45.

Hanover was one that Rewbell and Delacroix, though favorable to the Demarcation Line as far as Westphalia was concerned, viewed as on a different footing. The military members of the Directory (Carnot and Aubert-Dubayet), backed up by the reports of General Jourdan, did not wish to grant anything till the plans of the campaign were settled.¹ To the French the Electorate was ever a means of striking England. Its possession might work an exchange that would restore to them some of their colonial possessions;² or, better yet, it might be used as a bait with which they could draw Prussia into difficulties with the Empire³ and with the crown of England.⁴

As it became more and more certain that the Republic was entering on a great struggle, the Directory, influenced by the military party, hesitated to agree to a line that might conflict with Jourdan's plans.⁵ Hanover was again the particular stumbling-block. While that Electorate was delaying Prussian plans for its defense, the

¹ Sandoz, Jan. 12, 1796, in Bailleu, i, 45. Hüffer, i, 300, is evidently using the same material.

² Delacroix suggests the Windward Islands. Bailleu, i, 45.

³ They demanded that Austria acknowledge the line. Bailleu, i, 59. Frederick William writes, Feb. 6, to his ministry: "Die Gründe und die Anerbietungen des Herrn Caillard sind wenig stichhaltig; es scheint man will nur Zeit gewinnen und uns mit ganz Europa veruneinigen." Hüffer, i, 300. See also Massenbach, *Memoiren*, ii, 219, 220.

⁴ Sandoz, Jan. 18, 1796: "... chaque jour le ministre Delacroix me tient un nouveau langage sur cette neutralité; avant hier il soutenait par ex. que l'électorat de Hanovre ne devait pas inspirer autant d'intérêt à V. M. qu'elle le manifestait; que c'était du démembrement même de celui-ci qu'elle trouverait un jour des arrondissements convenables à ses États; enfin que V. M. ne pouvait pas vouloir affaiblir les moyens de pacification de la République française en comprimant ses avantages..." Bailleu, i, 46.

⁵ Bailleu, i, 59.

French were muttering threats against its independent existence.¹

The state of the negotiations in Paris made it imperative that the Prussian government should take into consideration the possibility of a rejection of the line proposed as a substitute for that negotiated at Basel. Haugwitz was the royal adviser who saw clearly the calamitous consequences of the failure of the negotiations. He had staked his whole policy on a successful effort to escape the importunities of the allies and the overtures of alliance made by the French. With a clearness of insight and a firmness of purpose which does not always distinguish his policies or their execution,² Haugwitz turned

¹ Bailleu, i, 58.

² Krüdener, after stating the views of King Frederick William III., in 1801, gave the following sketch of Haugwitz: "Quant à son ministère, personne n'y a assez de caractère pour avoir un système à soi, ni assez d'ascendant pour faire prévaloir son système, s'il en avait. Le comte Haugwitz, ni pacifique, ni guerroyant, ni Anglais, ni Français, ni Autrichien, n'est que ce qui convient à un ministre qui craint les embarras. Si son Maître aimait la guerre il serait le plus intrigant et le plus ambitieux des ministres. Il n'a que des demi-volontés." F. Martens, *Recueil des Traités conclus par la Russie*, vi, 297, 298, also pp. 258 and 266 for views of Repnin and Panin, both former Russian ministers in Berlin. Sieyès refers to him as "le ministre des ajournements." Cf. Bailleu, i, 483. Of all the diplomats, English, Austrian, Saxon, Hanoverian, French and Russian, whose utterances, printed or unprinted, have come under my eye, I think Caillard, the French ambassador in Berlin from Oct., 1795, to June, 1798, is the only one who consistently speaks of Haugwitz with favor. [Cf., e. g., Bailleu, i, 439 and 469.] One ought possibly to add the Bavarian, Bray. While himself regretting Haugwitz's retirement in 1804, Bray speaks of the general satisfaction among the diplomats at Haugwitz's disappearance. His slackness and neglect had brought Haugwitz into bad repute. Cf. Bray's account of Haugwitz's retirement in Bailleu, ii, 624, 625, and in Bray's memoirs, published under the title, *Aus dem Leben eines Diplomaten der alten Schule* (Leipzig, Hirzel, 1902). This monograph has in no sense attempted a rehabilitation of Haugwitz or a defense of his policy. The aim is simply to show the policy in the light in which it appears when approached from a point of view of a minor North German state.

energetically to the consideration of the means which were to save Prussian neutrality if the line was rejected, and which in any case would make the line respected by the not-too-scrupulous generals and statesmen of the Republic. The frequent violations of the neutrality arranged in May, 1795, had taught that something more than sign-posts decorated with the Prussian eagles must be put to mark the border line.¹ Haugwitz now turned to the idea of the organization of an Observation Army, formed and supported by the North German states who shared the benefits of Prussia's neutrality. It is only by giving due consideration to the policy of neutrality from its military side, and with special reference to Prussia's relations during the period to the minor German states, that one can obtain a fair estimate of Count Haugwitz as the responsible royal adviser in the years 1795-1803. Regarded from that point of view, neutrality seems a vigorous policy,² bearing within itself great possibilities for the future of North Germany and Prussia, if that state but justified the confidence she had asked of her neighbors. When to the neutrality arranged by treaty Prussia had added a respectable military force that promised a blow for every infringement, then we may speak of a policy worthy a historian's consideration. When the Duke of Brunswick, with such men as Blücher, Wallmoden and Scharnhorst as his lieutenants, had assumed command of an army of 40,000 soldiers, drawn from the greater states of North Germany and supported by the joint action of all the neutralized states legislating in a special congress called for that purpose, then we have

¹ "Of what good is a neutrality that is not armed?" inquired Häberlin in his *Staatsarchiv*. Cf. vol. iii, 48 (footnote).

² See Massenbach, *Memoiren*, ii, 218-220. He expected that it would need to be defended against the Austrians.

something different from the arrangement in the *convention additionnelle*—we have a “Neutralitäts-System.” These things Haugwitz saw, and strove to make his sovereign see. It is the failure of King William III. and his kitchen cabinet, in the years 1798 to 1803, to appreciate that in those days of stress and strain, neutrality was not a self-enforcing system, that the army must cast its lengthened shadow over diplomatic negotiations, that the sign of the sword alone made treaties binding—it is the failure of the king to stand firm in dealing with the blustering Czar Paul or the ruthless Napoleon that has relegated the Haugwitzian policy and its author to the limbo of great failures.

Whatever may have been the weaknesses of neutrality as a policy, its chief exponent cannot be accused of a failure to realize the necessity of making it effective. The idea of an army to defend the neutrality of states who wanted to keep free from the great contest had early received attention.¹ The uncertain attitude of the French statesmen and generals towards a strict observance of neutrality gave it new life.² Haugwitz became its exponent,³ and without the knowledge of his colleagues,⁴

¹ Cf. chapter II.

² One should also notice the firmer tone in the directions to Sandoz about this time, e. g., Jan. 29th, in Bailleu, i, 45, and similar expressions to the diplomatic corps in Berlin. *Ibid.*, 529. But Prussia did not mean to carry matters to a point of war. Cf. Caillard's report, Feb. 27, of conversation with Haugwitz, *ibid.*, i, 437.

³ *Ibid.*, i, 49.

⁴ Von Alvensleben in a memoir dated Oct. 1, 1797, reviews the events after the treaty of Basel. In speaking of the king's action of Feb. 15, 1796, he says: “—(je suppose par les conseils de S. Exc. M. le Comte Haugwitz, le département n'en ayant eu aucune connaissance avant)—.” Bailleu, i, 150-151. Haugwitz was further hampered by the great pressure then being exerted by England and Russia

and against the sharp opposition of the French party in Berlin, whose head and front was the King's uncle, Prince Henry of Prussia, brother of Frederick the Great,¹ King Frederick William II. was induced by Haugwitz to send a circular note to the North German states sheltered by the neutrality arrangement.² These notes, of February 15 and 16, 1796, give no open hint in their account of negotiations at Paris that there is overshadowing danger of failure. The minor states are urged to relieve the situation by the strict enforcement of neutrality. Mention is made of the new line which is being negotiated, and, in a conclusion especially adapted to each state addressed, it was inquired what they could do to make certain the execution of the stipulations concerning the new line.³

The note to the Duke of Brunswick is the one which most clearly reveals the seriousness of the situation.

through their respective representatives, Lord Elgin and Kalistchev. Cf. Lord Elgin's despatches in the *Eng. Rec. Office. Prussia F. O. nos. 39, 40, 41*. These despatches show Hardenberg and Hohenlohe as the most earnest advocates of an Austrian-English-Prussian rapprochement. Haugwitz is not deaf to offers of subsidies. If this account pretended to be a full treatment of the Prussian policy during the period of neutrality I should be obliged to take into account the herculean efforts made by England during these years to arouse the Berlin cabinet from its retirement. The English archival material for such an account is abundant. A glimpse of the diplomatic struggle and cabinet dissensions in Berlin in Feb., 1796, may be obtained from the despatches of the Austrian ambassador, Count Reuss. Cf. Bailleu, i, 527-528, 532.

¹ His attitude during the negotiations at Basel has already been referred to. On this period see Caillard's report of Jan. 30, 1796, in Bailleu, i, 435.

² On the same day Struensee, minister of finance, was set the task of devising means to raise four or five million (reichsthalers?). Cf. Struensee's report of March 1st. *R. 67, B. 19 a, vol. i. (Berlin Archives.)*

³ Copies of the notes in above cited volume in the *Berlin Archives*.

The letter does not follow the form of the circular note closely. Its main consideration is given to the question of measures to be adopted—what is to be done if France rejects the proposed line? In all frankness the king reveals to Charles William Ferdinand “the incalculable danger” in which he thinks all North Germany stands if the tide of war flows toward the Lower Rhine. To the Duke’s foresight and patriotism is commended the necessity of the Prussian plan of gathering an imposing army that shall make neutrality respected. Nor does the king wish to see matters delayed till the storm breaks. Quietly and without *éclat* the plans should be concerted. Over the whole plan the king of Prussia invokes the shadow of legality and Imperial sanction. “It only remains to add, that in order to put the neutrality we are considering more surely beyond the possibility of violation, I am in constant communication with the Court of Vienna in order to secure its co-operation.”

The only unwisdom in this appeal was that it seemed to make the execution of a plan, whose failure or success meant much to the Prussia of that day, dependent on the attitude of a group of minor and dependent states. To be obliged to abandon a military measure that should efficiently defend her own possessions and give force to her negotiations in Paris,² merely because the states of Lower Saxony and Westphalia would not aid her, was to confess the failure of her own power to initiate vigorous measures.

¹ The note to the Duke is dated Feb. 16. On the communication of the plan to Austria, *cf.* Bailleu, i, 529, 530.

² Von Ompteda’s report of Jan. 26, 1796, “es scheint hin und wieder gewünscht zu werden, dass der hiesige Hof durch die Zusammenziehung einer Armee in dem nördlichen Teutschland unter dem sehr natürlichen Vorwand der Deckung der Neutralitätslinie seinen Negociationen mehr Nachdruck und sich selbst mehr Respect verschaffen mögte.”

The replies to the circular note of February 15, seemed to indicate that Haugwitz had put Prussia to the shame of such a confession. Some accepted the plan directly. Of this group Brunswick is the best example. Of those who rejected it incontinently none did it in language so biting and scourging as the Bishop-Elector of Cologne.¹

The important question was what attitude the Elector and Regency of Hanover would assume. Their state was not only the one naturally most interested after Prussia in keeping the French out of the Westphalian region, but its geographical position and financial ability to contribute made its action definitive. The Regency had known since early in December, 1795, that Prussia considered it advisable to keep the Hanoverian troops as the Prussian had been kept, in complete readiness to act. The safety of North Germany lay then as ever in the association of such controlling states as Hanover, Saxony, Hesse and Prussia.² The Hanoverian Regency had never lost sight of the uncertain position in which they remained as long as the French neither observed the neutrality line nor pledged themselves not to molest the English king's German lands. So it is not surprising that despite their tendency to consider most measures as "bedenklich," the Regency most heartily concurred in the plan suggested by Haugwitz.³ Their

¹ His reply is eloquent in its passionate bitterness and almost convicts Prussia of treason to the Empire by the pointed enquiries it directs at the Berlin statesmen. The Elector of Cologne had been as bitter in the preceding year when the Elector of Hanover had sought peace. Cf. Vivenot, *Briefe des Freiherrn von Thugut*, i, 398, 399.

² Reports of von Ompteda, Dec. 5, 1795, in *Cal. Br. Des. 24, Brandenburg-Preussen No. 551*. (*Hanover Archives*.) Haugwitz had broached these topics to the Hanoverian envoy.

³ Jan. 2 they write Ompteda that the proposition of Haugwitz deserves

troops had been kept on a half mobile footing in complete readiness to take the field, so that when Haugwitz through Ompteda¹ sounded them as to their attitude towards the formation of a demarcation army, the idea did not come to them as something new, but rather as a plan in complete agreement with the measures they had taken.² It was then, with Hanover's co-operation practically assured, that Haugwitz issued his note of February 15. The Hanoverian reply, which has been so severely condemned, is far from being the hearty expression of support that might have been expected. It seems to have been framed with the view of driving a good bargain with Prussia when the question of financial support should arise. Most vigorously the Regency presented all the efforts Hanover had made to conform to the treaty of Basel, and that, in view of the Prussian failure to obtain a "*Gegen Erklärung*" from the French, Prussia herself is the state which should assume the support of further protective measures. The tone is what might have been expected if we knew that Secretary Rudloff had been commissioned to write the reply in accordance with his views as expressed to von Dohm in the preceding fall.³ But this little display of narrowness

"alle Aufnahme und eine vollkommene Erheblichkeit. Ihr werdet demnach zu erkennen geben dass diesem sehr erleuchteten Gedanken der grösste Beifall von uns ertheilet wird." In 1126a, I. (*Hanover Archives*.)

¹ Ompteda's report of Jan. 26, 1796.

² That is, keeping their troops in readiness. It is in their rescript of Feb. 3 that they write: "Die in eurem Bericht von 26. v. M. erwähnte Idee von Formirung einer Neutralitäts Armee ist uns nicht fremd und unbekannt. Es stehet solche mit unserm obigen Auftrag in Verbindung und daher werdet Ihr bestens zu beobachten suchen inwiefern solche oder etwas Ähnliches oder Mehreres dorten vielleicht nach und nach Ingress finden möchte." *Hanover Archives*, 1126a, I.

³ The reply is in the same volume with Haugwitz's note in the Berlin

did not prevent the Regency from acting in a way more consonant with their previous utterances. February 20, Haugwitz was assured by them that fifteen or sixteen thousand Hanoverian troops¹ could be mobilized in fourteen days to defend the Weser, and communication was opened with Saxony to induce her to dispose an equal number along the Werre. So convinced were the Regency by Haugwitz's assurances of the French hostile intentions, that they asked only to know what was intended in the way of common action that they might be prepared to act, should the French utterances seem ambiguous.² That these utterances were not simply for the effect which they might have in Berlin, is proved by the Regency's suggestion to King George that Hanover propose to Prussia a convention arranging their joint defence of the Demarcation Line.³ On February 29, two weeks after Haugwitz's inquiry, they agreed to the Prussian plan for a defensive army of

Archives. The tone of the Hanoverian reply may justify the adjectives used by Bailleu, but the policy of Hanover early in 1796 toward the Demarcation Army cannot be called "widerwillig und ablehnend." Bailleu, i, xxiv, *et seq.* Their reply to the note of Feb. 15 is dated Feb. 26 and is signed by Kielsmanegg, Steinberg and Arnswaldt. The Regency, in a letter to King George, dated Feb. 25, 1796 [*no. 1126a, I, Hanover Archives*], explains that though firmly in favor of the neutrality of north Germany, they have thought it better to reply in generalities and depend on the Prussian negotiations.

¹ Probably an over-estimate. Cf. Massenbach, *Memoiren*, ii, 407, for an estimate in the preceding year.

² Regency to von Ompteda in 1126a, I. (*Han. Archives.*) In a note to the king they indicated that Haugwitz was extremely cautious in revealing his plans for fear France would be "*brusquiert*." Regency to king, Feb. 4, 1796.

³ Regency to king, Feb. 25, 1796, in *no. 1126a, I*. They think such an agreement will prevent a Franco-Prussian understanding and draw Prussia toward the English system.

30,000 Prussians and 15,000 Hanoverians under the Duke of Brunswick.¹ In view of the fact that French invasion only awaited French interest, the Hanoverian Regency held it absolutely necessary to trust themselves wholly to the Prussian court and to arrange matters in conjunction with them as they alone were in a position to ward off the danger and to give assistance to which their previous assurances bound them.²

The attitude of King George was slightly less cordial towards the idea of a Demarcation Army than was that of his ministry in Hanover.³ He approved in the main, throughout these months, the Regency's oft-expressed intention of acting with Prussia in case danger from France was pressing, but from his broader outlook he felt less sure that the French would dare to flout Prussia by invading Hanover, and deemed it wise not to let the leadership in the matter slip too completely into Prussia's hands. General Wallmoden-Gimborn was appointed commander of the Hanoverian contingent, with Major Scharnhorst as his quartermaster-general.⁴ All further details the king left to the ministry, with oft-repeated injunctions to purchase the necessary supplies and to keep their promises to Prussia.⁵

¹ Regency to von Ompteda in 1126a, I. The king of Prussia had written a personal letter to Brunswick about his co-operation and the Duke, with a view, possibly, of sounding the Regency, wrote to Hanover for advice. Regency to king, Feb. 25, 1126a, I. (*Hanover*.)

² I have followed closely the wording of their despatch to the king, dated March 3, 1796.

³ He (von Lenthe drafts the rescripts) was advising the discussion of united action before he received Haugwitz's note of Feb. 15. Cf. rescript of Feb. 19, 1796, in Cal. Br. Des. 11, E. I, no. 1126a, I.

⁴ Lehmann, *Scharnhorst*, i, 283.

⁵ The King's views are expressed in such rescripts to the ministry as those of March 4 and 11, April 15 and May 3rd. Jacobi-Kloest, the

This cordial attitude of King George and his advisers toward the main idea of the Prussian plan is a pleasing oasis in all the aridity of these years, during which Hanover is so often the passive object of policies initiated by other states. There is a positiveness in the Regency's reports about mobilizing troops, appointing commanders and establishing headquarters that refreshes because it is so un-Hanoverian.¹ But "*Bedenklichkeiten*" could not long be wanting. In the early stages of the correspondence the question of expense and its distribution had occurred to the Hanoverian ministry. They were not sure but that Prussia was exaggerating the French danger,² while having in mind other objects,³ and with persistence the idea recurred that Hanover had a right to appeal to Prussia's guarantee of neutrality so long as the Regency had promised von Dohm the expulsion of the Dutch, English and emigré troops.⁴ But it is in the unwillingness to undertake the expense of supporting the Demarcation Army until it could otherwise be pro-

Prussian ambassador in London, considered the King as most favorably disposed toward the Prussian plan. Cf. e. g., report of March 24. (*Berlin Archives.*) He is equally pleased with von Lenthe's conduct. Cf. Jacobi's report of April 26, 1796. (*Berlin Archives.*)

¹ March 30, the ministry sent Haugwitz a detailed statement of the composition of their corps of 12,000 infantry and 3,000 cavalry with headquarters at Minden (In *II26a, I*). Stein was then in Minden as President of the Westphalian Chamber of War and Domain. Lehmann, *Stein*, i, 176 (Leipzig, 1902).

² Reports to the King. March 3 and 31.

³ Regency to Ompteda, March 9, 1796. By this it is likely they meant that Prussia had primarily in view the protection of its Western provinces or the expression of its discontent at the French treatment of the Prince of Orange. The Regency's report to the king, April 14, shows the greatest distrust of Prussia's plan.

⁴ E. g., Feb. 29, 1796, in a rescript to Ompteda. On this matter see chapter iii.

vided for, that they prepared the greatest difficulty for Haugwitz, who, despite the discouraging replies to his note of February 15, the failure of Struensee to raise a loan and the opposition of his colleagues, had held the Prussian king to the plan he had proposed.¹

The question of expense had raised such difficulties that, as long as Hanover refused to assume the burden, the Prussian troops were unable to move. The man who was to command them did not at first seem inclined to lessen the uneasiness which the Regency showed. Between the death of Frederick the Great and the rise of Stein the most influential personality in North Germany was Charles William Ferdinand, Duke of Brunswick.² His advice was sought and followed by Frederick William III. On the other hand, the position and interests of his own lands, together with the moderation of his views, gained him the confidence of the smaller states, so that at each new move of their more powerful neighbor they were prone to ask, "What does the Duke of Brunswick think?" When the idea of an Observation Corps promised to become a reality there was but one choice for its commander.³ All agreed that the Duke of Brunswick was the man.

¹ On Feb. 21, Alvensleben submitted a memorial arguing against the Demarcation Army on the ground of expense. Cf. Bailleu, i, 49 ff. Struensee's failure is shown in his report of March 1, where he says that he has been able to raise but 1,000,000 (thalers?). *Berlin Archives*, R. 67 B, 19 a, 1. Haugwitz's views are set forth in a memorial (unsigned) dated March 3, and bound in this same volume in the *Berlin Archives*. The memorial shows a clear appreciation of the crisis that faces not only the system of neutrality but the Prussian state itself.

² There is no adequate biography of the duke. See Fitzmaurice, *Charles William Ferdinand, Duke of Brunswick: an Historical Study* (1735-1806). (London, 1901.)

³ The king of England, among others, requested that the Duke be

The Duke had not been in sympathy with the Prussian policy of neutrality, and when Clerfaut's successes in the fall of 1795 had given the Imperial cause a brighter prospect he urged the allies to offer Prussia increased subsidies. What he would have done was to move the Hanoverian corps up to the Ems and then have negotiated with arms in his hands.¹ But nothing was done, and the Duke was left strong in his dissatisfaction with the controlling party in Berlin.² This distrust of the Berlin cabinet the Duke felt free to express to the Hanoverian commander, General Freytag.³ The king (Frederick William II.), he said, means well, but no trust can be put in the persons around him. The ministry is weak and untrustworthy. Count Haugwitz conducts affairs very well at times, but he swings from one side to the other. The Duke doubted the reality of the danger from the French, and feared the intrigues at court and the ministry's constant plans for territorial increase. He would take the command if offered him, but that he might not be the tool of nations, houses, or men who were not bound by treaties, he would, when he knew what the army was expected to defend, make his arrangements directly with the king; for otherwise no dependence could be put in an arrangement at Berlin.⁴ Such

appointed commander of the Demarcation Army. Cf. copy of Prussian reply to Russian protest against the Demarcation Army, dated May 25, 1796, and enclosed in Lord Elgin's dispatch of that date. (*English Record Office, For. Office, Prussia, No. 40.*)

¹ Cf. Duke's letter to King George, Oct. 29, 1795, conveyed through Wallmoden and the Duke of York. (*In 1126a, I, Han. Archives.*)

² Duke's letter undated in above package. King George sought to have the Duke use his influence in Berlin. King George to General Wallmoden, January 19, 1796.

³ Reported by Rudloff, March 5, 1796. (*no. 1126a, I.*)

⁴ Letter of the Duke, March 5, 1796. (*In 1126a, I.*)

words from the Duke of Brunswick to the Regency in Hanover could not but have been seed sown on ground well prepared.

The consent of the French government to the general idea of a Demarcation Line given on March 24¹ had advanced the negotiations but little. The Directory's constant recurrence to the definite session of the left bank of the Rhine, indemnification for the House of Orange by Prussia's seizing Mecklenberg, the adoption of the policy of secularization and a Franco-Prussian alliance, had opened a long and troubled vista of propositions and counter-propositions.² Prussian diplomacy, then, had not been successful enough in Paris to justify any relaxation in the Prussian efforts to secure the neutrality of North Germany by the organization of an army for its defense. Haugwitz was embarked in a policy to which his every interest bound him,³ and he pushed it with a vigor scarcely characteristic. At a conference held in Magdeburg April 15, he met and discussed the situation with the distrustful Duke of Brunswick and with Prussia's efficient agent, Christian Wilhelm von Dohm. There, presumably, the whole situation was canvassed.⁴ Certain it is that the Duke was brought to

¹ Sandoz-Rollin to Prussian Ministry. Bailleu, i, 60.

² Hüffer, i, 301, 302.

³ "La neutralité fut l'ouvrage de Haugwitz, sa gloire, son enfant chéri." Haugwitz, *Fragment des Memoires*, 17. "Je parle de cet enfant chéri qui m'a valu ou qui a dû me valoir la bénédiction de ma patrie. Si elle balance à me l'accorder, je la trouve au fond de ma conscience." Haugwitz, as quoted in Ranke, *Works*, 47, 305. See also Caillard's despatch in Bailleu, i, 439, 440, and Reuss to Thugut, *ibid.*, 539.

⁴ The Duke, in view of this conference, had been furnished by the Regency with the necessary data as to Hanover's military strength, etc. Cf. Regency's reply to Duke's request, April 13, 1796. No. 1126a, I.

see that there was a real basis for fearing the French.¹ The Duke now explained to the Regency that what had seemed to him suspicious in the actions of the Berlin ministry had been the result of viewing externally the contending factions. The Duke, too, determined to take command of the Demarcation Army if assured of the co-operation of Hanover. At a conference in Peine, April 21, Minister-President Kielsmanegg, of Hanover, and the Duke went over the whole ground, differing only when it came to the question of supporting the corps that the Prussians wished to form.² Hanover's refusal to undertake it even temporarily seemed to the Duke all the more to be regretted when one considered the poverty and slowness of the Circle of Lower Saxony. Convinced that the king of Prussia was in earnest about the proposed measures, the Duke was mildly optimistic about

¹ See protocol of Regency's meeting of April 18th to consider a letter from the duke. (In *no. 1126a, I.*) According to Lord Elgin's despatch of Jan. 16-17, 1796, the duke had already consented to assume charge of defensive measures. [*English Record Office.*] Haugwitz, in his *Fragment des Memoires*, pp. 53, 54, says of this interview with the Duke: "Le Duc de Bronsvic qui avait tort peut-être d'accepter le commandement en 1792 (mais s'en étant chargé il n'aurait pas dû le quitter en 1793) en 1796 se trouvait à sa place. Rappelé alors par Frédéric Guillaume II. il fut dû aux soins de Haugwitz qu'il s'y trouvait, Après sa retraite en 1793 il y eut des froideurs entre le maître et son ancien maréchal. Le-dernier sans quitter le service avait cependant l'air d'y avoir renoncé pour toujours. Les relations qui devaient avoir lieu maintenant et naître du système de la neutralité du nord de l'Allemagne, semblaient de nature à appeler de nouveau le Duc de Bronsvic au commandement de l'armée. C'était la pensée du ministre, qui pour cet effet, en se menageant une entrevue avec le Duc à Magdebourg y parvint à raffermir la confiance ébranlée. . . . A la tête [de] cette armée il fit respecter le droit de la neutralité dans toute son étendue."

² The Duke's report is enclosed in von Dohm's letter of April 23. [*Berlin Archives.*]

the possibilities of getting England and Prussia together,¹ if only Hanover would see its duty.

Evidently the Haugwitz-Brunswick-von Dohm conference at Magdeburg on the 15th had considered an expedient for securing the steady support of the troops when once in the field—that is, the revival of the Diet of the Circle of Lower Saxony, which had not met since 1682.² It would be on such a subject that von Dohm's unrivaled knowledge of Imperial laws and forms would furnish a safe guide. But a still more pressing question considered in Magdeburg³ obscured for the time the interesting experiment just mentioned. It was determined to send von Dohm on another mission to Hanover with the object of convincing the Regency that it was necessary for them to do temporarily what the Circle of Lower Saxony was to be asked to do for a longer period, that is, furnish supplies not only for their own, but for the Prussian corps under General Blücher.

Von Dohm started for Hanover about the middle of April. His previous experience had given him an insight into the way of thinking in Hanover, and optimistic though he was, he could scarcely have felt unwarranted hope in this attempt to get the threatened Electorate to support a Prussian corps for three months; for there still prevailed in Hanover the view that Prussia was responsible for the defence of Hanover against the French. The mythical guarantee given by Prussia when Hanover

¹ The minutes of this three-hour conference are in no. 1126a 1, (*Han. Arch.*).

² Bailieu's Introduction to volume viii, *Publicationen aus d. Kgl. Preuss. Archiven*, Cf., p. xxv.

³ The opening words of the instructions sent v. Dohm refer to the fact that the main points in them were discussed in Magdeburg. There exist to my knowledge no minutes of this conference of April 15.

ceased its measures of defence in the preceding fall, was something Hanover might be expected to revive and insist upon as long as Rudloff had a hand in shaping the Regency's councils.

The instructions given von Dohm, as already mentioned, were determined on in Magdeburg.¹ When compared with the Prussian circular note of February 15, they show that Prussia is now apparently determined on but one thing, that is, the defence of the neutrality of her own Westphalian provinces. To the other interested provinces she offers the protection of her troops if they will co-operate in supporting a corps composed of regiments from Prussia, Brunswick and Hanover. So definite are von Dohm's instructions in proclaiming that Prussia could and would sit in peace and see the other provinces invaded, so sure is she of the ability of her own troops to protect her scattered Westphalian states, so oft repeated is the direction to von Dohm to make it clear to Hanover that this is but an *offer* of the king of Prussia, and that if Hanover does not provide temporarily the necessary supplies, von Dohm's mission ends²—so definitely is all this put, that it is only by reënforced attention to the real situation that one can distinguish the statesmanship in the general plan from the diplomacy adopted for its execution. Haugwitz's own utterances show that he saw in this crisis how inextricably Prussia's national honor and very existence were imperilled if the French should invade Westphalia and Lower Saxony.³ The geography of Prussia's provinces made it impossible that she should

¹ *R. 67 B. 19 a, vol. I, (Berlin Archives).*

² His instructions are to retire to Brunswick and await results.

³ *Cf. the memoire of March 3, in Berlin Archives (sup. cit.).*

be indifferent to French movements against Hanover.¹ What would become of Minden and the Mark if Hanover should be overrun by the French? Or who could foretell the fate of Hildesheim and Osnabrück, bishoprics that Prussia had not left out of sight in arranging her indemnity? Thus it was that geography had shaped policy before von Dohm's instructions were ever drafted. It is from this point of view that one can understand why Hanover and the interested states dared to delay so long and to expect so much from Prussia; they felt certain she could abandon the Electorate only when she abandoned her own states, and her hopes of increase in the Westphalian region.²

Specifically, von Dohm was directed to secure from the Regency in Hanover the support for three months of the troops of the Demarcation Army, and also the Regency's co-operation in getting the Imperial approval of the system of neutrality and the measures taken to support it.³ The idea that the Emperor was not to call on the neutralized states for troops or contributions (Roman months) was indeed asking positive sacrifice of the Emperor in behalf of an association that put itself in opposition to the Imperial policy.

A new demarcation line acknowledged by France,

¹ Lord Elgin, January 30, 1796, reports a conversation with Haugwitz after the receipt of Sandoz's first despatch, in which Haugwitz said that the King "further felt himself bound in honor to insure the safety of Hanover as he had exerted all the weight of his influence to obtain its adherence to the stipulations of Basle." (*Eng. Rec. Office*).

² One is impressed with the feeling that the Hanoverians did not realize fully the financial and military weakness of Prussia, and counted too much on her ability to do alone what she asked their necessary aid in doing.

³ See copy of von Dohm's instructions in *Berlin Archives*. Also Gronau, *Von Dohm*, 300-302.

then at war with the Empire, the formation of an army to defend it by drawing contingents that would otherwise go to the Imperial army fighting France on the Rhine, the approval of this neutrality association by the very Emperor whose forces it depleted, whose leadership it denied, the support of the Demarcation Army by subsidies from England, who regarded herself as deserted by Prussia at Basel, and by contributions from Hanover, whose ruler was then directing the English forces against France—it was this sheaf of possibilities that the government of Frederick William II. would bind together in a neutrality system which would restore Prussian prestige and establish the Prussian hegemony in North Germany. Was the statesmanship of Haugwitz and his colleagues robust enough to realize what it dreamed? The unsatisfactory course of the French negotiations has been noted. England refused subsidies to support an army that was to remain on the defensive.¹ The Emperor not only

¹ Lord Elgin's despatch of Feb. 13, 1796, says he has combated an idea broached by von Ompteda, *i. e.*, "that an army brought together for the purpose of preventing the infringement of the treaty of Basle would be so beneficial to the allies as to induce England to aid Prussia in forming it." He did it because "an idea has been surmised of forming a species of armed neutrality for the Circles of Upper and Lower Saxony, and in that view, no doubt, some troops destined for co-operation with the Austrian army might be withheld for the purpose of joining the Prussians." February 23, Elgin reported how Haugwitz and Hohenlohe had urged the benefit to England of the well-defined neutrality of Hanover and North Germany. Elgin again tells them, "— how impossible it was that England should stand forward for the defense of a treaty made in contradiction to engagements contracted with her and interests she was using every effort to support. That on these grounds it was quite out of the question that England should take any share in the protection of the North of the Empire or advance money for an arrangement for that purpose." Later, Lord Elgin went further than his instructions permitted, and urged on Count Kalitschev and Prince Reuss, the Russian and Austrian envoys, that though they

stamped the neutrality system as unconstitutional, but brought the Empress Catherine of Russia from approving to protesting against the Demarcation Army.¹ One

might disapprove Prussia's means of defending the north of Germany by a Demarcation Army, yet they must agree in holding her responsible for its protection, and that, in view of the serious danger from the French, too many obstacles should not be put in the way of the Berlin Cabinet. *Cf.* Elgin's despatch no. 46, May 25, 1796. (*Eng. Rec. Off.*) Haugwitz in his reply to Russia's protest against the Demarcation Army, said that it was concerted with and approved by the English government. The English ministry hastened to disavow this (*cf.* instructions to Lord Elgin dated June 24, 1796). Further, on the attitude of Russia towards the Observation Corps, *cf.* Regency to King George, June 30, 1796. (*In no. 1126a, I, Hanover Archives.*)

¹The Prussian government allowed the English and Austrian representatives to think the Imperial consent was a *sine qua non* in the plan of forming a Demarcation Army. Lord Elgin, April 16, quotes an Imperial declaration recently received that "neither as Emperor, State of the Empire or one of the combined powers can he give his sanction to the line of Demarcation for the neutrality of the north of Germany." April 24, Elgin reports that Haugwitz has abandoned the plan of getting the Imperial consent. April 26, he tells how Kalitschev has called on Haugwitz with assurances of Empress Catherine's hearty approval of the Corps of Observation if "it would not be attended with circumstances of a nature to cause jealousy to the allies or to throw impediments in the way of their operations." His despatch dated May 17, discovers Kalitschev, as the result of an Austrian representation in St. Petersburg, urging Prussia to desist from the measure as insufficient in itself and unconstitutional in the eyes of the allies. Austria sought to arouse Hanover's suspicions by dwelling on the untrustworthiness of Prussian declarations and the ulterior aims she might be concealing behind the Demarcation Line and the Hildesheim Congress. (*Cf., e. g.,* report of Embassy at Vienna to King George, July 13, 1796, *no. 1126a, I, Han. Archives.*) Hanover stood up most stoutly for its right to protect itself. (*Cf.* Regency to its Embassy at Vienna, March 17 and 29 and June 8, *no. 1126a, I, Han. Archives.*) Hardenberg and v. Mühl, Hanoverian envoys, acted steadily with Lucchesini in Vienna. (See despatches of Schoenfeld, Saxon Envoy, during these months, *e. g.,* June 29, 1796, *Dresden Archives.*) After the Prussian and Hanoverian envoys had jointly explained what was being done for the neutrality of North Germany, the following *note verbale* was given Han-

other support remained untried, and the success or failure of von Dohm's negotiations with Hanover and the Circles of Lower Saxony and Westphalia would test that.

The political situation in Hanover at this critical juncture shows two conflicting tendencies. The first is represented by the ministerial aristocracy which had set itself against Hanover's paying the cost of the Demarcation Army, and was maintaining that Prussia, having guaranteed Hanover's security, should itself support the army. If Prussia did not bear the expense, the Regency

over: "Der Kaiser hätte zwar wünschen mögen, dass das Corps welches zusammen gezogen würde nicht blos zu einer Deckung des nördlichen Deutschlands, sondern zur Mitwirkung für die gemeine Sache bestimmt wäre, erkannte aber auch dass in so weit der Endzweck *blos* auf die Sicherstellung des nördlichen Deutschlandsgrenze und die Reichständischen *Obliegenheiten* nicht minder genau erfüllt würden, jene Ausstellung eines Observation Corps den Gesetzen und der Verfassung des Reichs nicht entgegen stände und *in dieser Masse* versagten S. Kaiserl. Majst. Ihren Beifall nicht." (Extract enclosed in Schoenfeld's despatch of July 6(?), 1796. *Dresden Archives*.) The nearest the Emperor ever came to publicly recognizing the neutrality system was in a note of Count Colloredo's in reply to a Prussian protest against a supposed breach of the Demarcation Line. It is dated October 30, 1800. It refers to the occasion of the Prussian protest as unknown and immaterial "indem Allerhöchstdieselben weit entfernt sind die von dem preussischen Hofe angenommenen Neutralitäts-Grundsätze des nördlichen Deutschlands zu beeinträchtigen sondern vielmehr jede Gelegenheit eifrigst ergreifen werden Se. Majestät dem Könige Ihre freundschaftlichen Gesinnungen zu bezeugen." Cf. Häberlins, *Staatsarchiv*, v, pp. 357-359. The English and Austrian view of Prussia's plan may be inferred from Morton Eden's letter to Auckland, from Vienna, May 15, 1796: "Prussia, supported by Hanover, is doing everything that is possible to distress us in the Empire. Its views evidently are to set on foot an army at the expense of the Circles of Westphalia and Lower Saxony in order to avail itself of events. . . . The conduct of Hanover gives great discontent here (Vienna) and it seems impossible for me to convince any one that His Majesty's English ministers have no influence over the counsels of his Hanoverian government." Cf. *Journal . . . of Lord Auckland*, iii, 334.

was willing to roll the burden upon the outlying Westphalian states on the plea that they were the real cause of the danger from the French.¹ The second political group, the provincial estates and the people in general, turned toward Prussia as a natural protector, and received with favor the offer of King Frederick William II. to place a corps on guard duty if its support were guaranteed.²

If one stops to consider for a moment the policies here in conflict, it will be evident, I think, that the position of the Regency was not without a certain amount of justification, viewing the situation as they did. As representatives of their Elector's interest, they may well have hesitated at first to assume the expense involved in supporting an army of forty or fifty thousand for three months. They were not convinced of the reality of the danger from the French, considering, on the one hand, the ill-provisioned and disorganized condition of the French army, and, on the other, their own resisting power and the certainty that Prussia would rush to their aid if serious danger arose.³ Having agreed to join their own troops to the Prussians under Blücher, and to support their troops, they felt they had more than met all the promises they had made Prussia. The added demand that Hanover should, if everything else failed, support the Prussian corps too, may have been regarded by them as a financial matter in which delay and bargaining might relieve them of at least part of the expense. Less justifiable but quite as potent may have

¹ Von Dohm's report of April 28, from Hanover, *sup. cit.*

² Hanover correspondent of *St. James Chronicle*, writing April 23. Cf. issues of May 7-10 (British Museum).

³ See von Dohm's letter of April 28, 1796 (*R. 67, B. 19a, I, Berlin Archives*).

been the fear which they, as members of the old aristocracy, shared with their class, that the assumption by the Electorate of such a burden would endanger their privileged exemptions from taxation.¹ All classes would be asked to contribute to the common defense, and a privileged class once yoked into drawing the burdens of state is not willingly restored by its team mates to a seat on the coach.

Von Dohm on his way to Hanover stopped at Brunswick and learned there the discouraging result of the Duke's conference with President Kielsmanegg at Peine on April 21.² When he arrived in Hanover, April 25,³ his undampened ardor and unabated zeal were but coldly regarded by the Regency. His proposition that Hanover support the Observation Corps until the Diet of Hildesheim had acted was promptly rejected.⁴ His trump cards, the urgency of the danger from the French

¹ I am led to this suggestion by the character of the Regency, by the existence of such a struggle in Prussia (*Cf. Hist. Zeit.*, 1895, 256-260), and by the following passage in von Dohm's instructions: "Als Hauptprincip muss hiebey angenommen werden, dass alle Unterthanen der associirten Lande und vorzügl. auch die privilegirten Classen deren Existenz und Eigenthum so vorzügl. geschützt wird, der Gerechtigkeit auch Vorschrift der Reichsverfassung gemäss zu Tragung dieser Last mit beytragen und dieses überall auf gleichem Fuss behauptet werden muss und niemand irgend Privilegia und Immunitäten hiegegen anführen darf." (*Berlin Archives*, R. 67, B. 19a, I.) A resolution to this effect was one of the first acts of the Hildesheim Congress. *Cf. Häberlin's Staatsarchiv*, iv, 383-387.

² Material on von Dohm's mission is in *Cal. Br. Des.*, 24, no. 550, and no. 1126a (*Hanover Archives*).

³ *St. James Chronicle* (London), May 19-21, 1796. The correspondent reports that Hardenberg is expected soon, and is to go to other towns to arrange measures of defense.

⁴ The ministry were not in the least conciliated by von Dohm. They hardly admitted him to a direct conference and passed him over soon after by communicating directly to Berlin.

and the firm determination of the king of Prussia not to move a single man until supplies were on hand in convenient magazines,¹ were played in vain. The Regency replied² that they knew no danger pressing enough to make them assume a burden that should really rest on the states other than Prussia, Hanover and Brunswick, which were doing their share by furnishing troops. Their real view, however, was that Prussia should live up to the agreement they claimed it had made the previous fall.³ Hanover would not admit that she herself was the cause of the danger to the tranquillity of the North of Germany.⁴ Her Regency complained that they knew nothing of the French-Prussian negotiations or the status of the Demarcation Line which they were asked to defend.⁵ This much the Regency said directly to the Berlin statesmen and their further actions and utterances showed that they did not realize the weak and unstable condition of Prussia.⁶ They thought the

¹ Von Dohm's letter to Haugwitz, from Halberstadt, April 19, 1796. He outlines these as the convincing points to present in Hanover.

² Dated April 30, 1796, in *R. 67, B. 19a, I (Berlin Archives)*. They further plead ignorance of the French and Imperial views on the formation of an Observation Corps.

³ This allusion to Prussia's responsibility for Hanover's defenseless condition brought forth a vigorous reply from Berlin, May 7. (*Cf. Ministry to von Dohm, Berlin Archives.*) The Regency were not so blind to the danger from France as this reply indicates. See their letter of February 20 to Ompteda and to the King March 3. By March 31 (Regency to the King) their courage is restored. (*No. 1126a, I, Han. Archives.*)

⁴ This point was urged in von Dohm's instructions.

⁵ See Hanoverian reply of April 30, *sup. cit.* In the meanwhile the Prussian king had been awaiting news of von Dohm's success in order to know how to answer the treaty proposition made by the French, April 20. See Hüffer, i, 304.

⁶ *Cf. Lord Elgin's despatch of May 2 (?)*, 1796. (*English Record Office.*)

Prussian minister Stein was already providing magazines at Minden for the support of the Prussian corps,¹ and when early in May, Hardenberg arrived in Hanover, the Regency hoped he might be the bearer of more favorable terms,² and refused to accede to the demands made by von Dohm. Baffled but not beaten, that indefatigable minister, obeying his instructions, left Hanover for Brunswick, after having issued the Prussian ultimatum that Hanover must grant the supplies asked for by May 12, or the offer of protection would be withdrawn.³ Here he only awaited a favorable reply from Hanover before moving to the second of his duties, the calling of the Congress at Hildesheim.

Meanwhile influences were at work in the Electorate which did not propose to see the land left open to a French incursion by the delays and bickerings of Rudloffs and Kielmanseggs.⁴ Hardenberg, the Hanoverian whose diplomacy at Basel had made Prussia responsible for the acquiescence of Hanover in the neutrality, was now visiting in Hanover, ostensibly for business reasons,⁵ but really, one may feel sure, seeking to accomplish as a

¹ Von Dohm's report of April 28, 1796. (*Berlin Archives.*)

² Von Dohm to Haugwitz, May 2, 1796.

³ Von Dohm, May 6, reports his presence in Brunswick "... wo ich in 24 Stunden weiter kommen als in Hannover in 6 Tagen." What I have termed the Prussian ultimatum is dated Berlin, May 2, and as it was despatched *par estafette* could have been delivered by von Dohm before leaving Hanover. The time limit is the chief thing not in his original instructions. Hardenberg favored his leaving. Cf. von Dohm's report from Hanover May 2.

⁴ April 25, Haugwitz wrote von Dohm that the Demarcation Line could only be made acceptable to the French by making it far less inclusive and even then no definite guarantees were obtainable. (*Berlin Archives.*)

⁵ See Appendix A. at the end of this chapter.

Prussian what he had planned as a Hanoverian years before, namely, the bringing of Hanover into closer connection with the other German States.¹ Count Hardenberg as a private citizen was more influential than if he had come as Prussia's envoy.² The public could regard him as a disinterested son of Hanover. The Regency alarmed by the activity of French revolutionary agents³ and the urgent statements of von Ompteda, their ambassador in Berlin, were readier to listen to Hardenberg's representations of the critical nature of the situation, for he spoke not alone as one who knew Prussian conditions, but as the mouthpiece of the Estates of Calenberg who had not neglected this opportunity of making their voice heard.⁴

In an earlier chapter a passing reference was made to some of the signs of Revolutionary influence in Hanover, and the name of von Berlepsch was mentioned as the agitator who had formulated the surprising declaration made by the Estates of the neutrality of "the Calenberg Nation." In the account of the first mission of von Dohm to secure the dispersion of English troops and mercenaries in the neutralized region, it was shown that the activity of these Estates and the co-operation of von Berlepsch in von Dohm's plans had brought forth a stirring protest against the remissness of the Regency

¹ Ranke, *Hardenberg*, I, 56-57.

² Cf. von Dohm's report from Brunswick May 6.

³ Lord Elgin's report of June [], 1796 (*Eng. Record Office*).

⁴ In his article on Reinhard in the *Allg. Deutsche Biographie*, Lang refers to a long memoir of Reinhard on conditions in Hanover at this time. This memoir I have not seen at this writing. A new source for the career of Reinhard after this period is the recently published letters of his wife. Cf. de Wimpffen, *Une Femme de Diplomate. Lettres de Madame Reinhard à sa Mere 1798-1815*. (Paris, 1901.)

in observing their treaty obligations. The crisis of 1796 was such another occasion as von Berlepsch sought. On May 6, the Estates of Calenberg met in Hanover in special session. There were as of old the three houses—the nobility, clergy, and commonalty. Their form was that of the ancien régime; their utterances, so often the outcome of local prejudices, showed on this occasion the breadth of a truer view than the Regency had yet grasped.

Through the confidence of one of their members in von Dohm, we are given the substance of their deliberations.¹ With unanimity the three Estates appealed for action to the Regency, whom the public held responsible for the delay of the Prussians in marching to the Electorate's defence. Their sense of their duty and the province's danger led the Estates to memorialize the ministry to adopt any and all measures that will place the safety of their Fatherland beyond doubt. The groundlessness of the Regency's plea of poverty is proved when the Estates offer to bear, in company with the other provinces of Hanover and the endangered neighboring states, the cost of the Prussian troops for the first three months. The action of the Estates was judiciously and respectfully taken. The language of this memorial is considerate, firm, vigorous. The energy of the Estates lay in the activity of von Berlepsch, whose promemoria was the basis of their discussion. The form of the declaration, its very tone, is given by the vote of

¹ Von Dohm in Brunswick transmits the action von Berlepsch had taken on May 6. He refers to von Berlepsch as an able man decidedly out of favor in Hanover. Von Berlepsch embittered by his removal from his offices went so far in 1798 as to enter into a treasonable correspondence with the French urging them to invade Hanover. (*Cf. Wohlwill in Hist. Zeit.*, 1884, 422.)

Herr Landrath, Graf von Hardenberg of the Curia Dominorum Nobilium. It was Hardenberg's statement which was unanimously approved by all three Estates.¹ Nor is it to be supposed that the activity of these former school fellows is comprehended in these resolutions.² Public opinion needed to be aroused and directed, and when the Regency still delayed, the Estates demanded action on their memorial. The Regency may have omitted to answer the appeals of the Estates,³ but it had taken action much more to the point.⁴

The transfer of von Dohm from Hanover to Brunswick did not mean a cessation of his activity. He took up the scheme of a conference of delegates from the different provinces interested in the system of defence, and, with von Münchhausen, the chief minister of Brunswick, busied himself in sending out calls for such a conference. Though snubbed by the Hanoverian Regency⁵ and dis-

¹ Von Dohm's letter of May 14 (*R. 67, B. 19a, vol. I, Berlin Archives*), encloses (1) a copy of the act of the Estates, (2) a minute of the resolutions of the committee in charge of the matter, (3) an address to the Regency dated May 7.

² Hardenberg proceeded to Altona (Hamburg) where he held a conference with Reinhard concerning Hanover. *Cf.* article by A. Wohlwill in *Hansische Geschichtsblätter*, 1875, 94-95.

³ In their report to the king May 12, the Regency mention that "Unterdessen sind schon die Lüneburgische und die Calenbergische Landschaft bei uns von selbst eingekommen und haben angeboten dass zu der Vertheidigung des Landes und zu der Verpflegung der Truppen die erforderlichen Lieferungen an Korn und Fourage nach einer dessfalls zu treffenden Regulirung vom Lande übernommen werden sollen." (*Hanover Archives*).

⁴ On the whole situation during these weeks see Appendix A.

⁵ Von Dohm's aggressive methods seem to have displeased the Regency very much so that they communicated directly to Berlin although von Dohm had full powers for all negotiations.

gusted with their slack methods,¹ he hoped still that they would not overrun the date set by the Prussian ultimatum—namely, May 12. Nor was he disappointed. The Regency sent Rudloff to Brunswick May 11, but did not arm him with the full powers asked. In view of the relations between the two men, it was an unhappy choice to send Rudloff to deal with von Dohm “ministerially,” while directing him to negotiate with the ministry of Brunswick. Finding that the latter body would not deal with him, Rudloff was finally driven to call on von Dohm, who, making the best of a bad business, treated him as the fully accredited envoy he had awaited. It was thus ungraciously that the Hanoverian Regency yielded to the necessities of the situation by adopting measures requested by Prussia and approved by their sovereign and by public opinion in Hanover.²

The following days were spent in a conference between von Dohm, Rudloff, von Münchhausen and Mahner for Brunswick, and Lockhausen for Hildesheim, discussing the provisional support of the troops.³ Rudloff had come with a plan which he practically carried through.⁴ It amounted to Hanover’s assuming about one-half the

¹ In order to show them the Prussian way of doing business he answers communications received on Sunday night before seven o’clock on Monday. The steps they then take involve a different question than that proposed by Haugwitz between Dec. 5, 1795 and Feb. 15, 1796.

² Cf. von Dohm’s reports in *R. 67, B. 19a, I. Berlin Archives*.

³ Rudloff’s memoranda of the meetings are in *nos. 1126a, I, and No. 550 (Han. Archives)* and von Dohm’s are in *R. 67, B. 19a, vols. I and II. (Berlin.)*

⁴ Von Dohm was warned by General Wallmoden in a letter to the Duke of Brunswick not to trust too implicitly in Rudloff’s assurances as to the “Marschfertigkeit” of the Hanoverian Corps. Wallmoden hoped to have 10,000 men on the Weser by the end of the month but they could not be fully prepared before June 15 or 20. Cf. von Dohm’s letter of May 14 (*Berlin Archives*).

expenses of the united corps of 45,000 Prussians, Hanoverians and Brunswickers. Not all the arguments and persuasion of von Dohm were able to move Rudloff to assume a greater burden.¹ Having settled the Electorate's share, Rudloff withdrew, promising to return, but he did not, and most of the deliberations conducted after May 18, as to the shares to be borne by the Hanseatic cities and smaller states, were without Hanover's participation. When measured by their willingness to pay for the defense to which they contributed no troops, it cannot be said that the Hanseatic cities and lesser states of Lower Saxony and Westphalia showed so great self-sacrifice as Hanover, which had at all times been willing to contribute and support its corps of 15,000 men. Hamburg and Bremen had been asked to assume part of the provisional outlay. They pleaded various excuses, but were evidently in terror of French displeasure.² To Hamburg, further French irritation would have been particularly embarrassing, as the city was already more than troubled by the problem of what to do with the representative sent them by the Republic.³ Wherever he turned von Dohm was balked by timidity and niggardliness.

Over all the countless and wearying details of these preliminary conferences we can pass without loss of time. Their management is a tribute to the activity, patience

¹ The tension at the conference was unpleasant. At one time Rudloff withdrew and only an invitation from the Duchess of Brunswick kept him in town till a compromise was effected.

² Von Dohm finally got a cash payment from Hamburg. Bremen refused at first to participate openly but would send money secretly. Prussia refused to excuse her from sending a delegate to the Congress in Hildesheim.

³ Reinhard. See A. Wohlwill's article in *Hansische Geschichtsblätter* for 1875.

and hopefulness of von Dohm amid the most exasperating delays and discouragements. Delegates to these Brunswick conferences frequently appeared without the necessary full powers and then all apportionments must await the approval of their petty governments. The refusal of some small contributor to do its assigned share necessitated a complete re-apportionment, which, when arranged by the same process of bickering, wheedling, and threatening, had to run the gauntlet of ratifications down to the little power whose share was a few miserable bales of straw or bushels of oats. Meanwhile the advance guard of a Prussian army—a Prussia but ten years away from the days of Frederick the Great—was waiting under Blücher—the same Blücher who was not to be delayed at Waterloo—waiting till these little principalities enclosed within the lines of Prussia's western possessions, should appropriate a few thalers to defend their own existence. Was it any wonder that the Republican armies could break at will into a land where exemption from three months' support of a few thousand men was insisted on as though it were a principle of state policy? Is it remarkable that Prussians thought aloud about territorial consolidation and extension, and that the lessons learned in the weakness of 1795 to 1803 bore fruit years later? Is it surprising that men like von Dohm, Massenbach, the Duke of Brunswick, Haugwitz and Hardenberg, looked forward to a definite hegemony of Prussia in North Germany, either through the grouping of states in a revived Fürstenbund, or by a division of the Empire between Austria and Prussia?¹

¹ Von Dohm was selected by Frederick the Great as one of his agents in the organization of the Fürstenbund and had since been active in the Westphalian region as a Prussian official stationed at Halberstadt. His experience in these fifteen years culminating in his labors in con-

The consideration of such policies must be left to the historians of the later periods; but the conditions which would give rise to such views and justify their realization are revealed in the period we are studying,

nection with the Congress of Hildesheim, gave him certain well-grounded views of the needs of Prussia and North Germany. The revolutionary wars directed his thoughts as they had those of Haugwitz, the Duke of Brunswick and Massenbach, toward some form of a North German Confederacy. Like them, also, he had drafted his plan of union. Gronau, in his *Christian Wilhelm von Dohm nach seinem Wollen und Handeln*, Appendix XII. (Lemgo, 1824), publishes in French, a memorial of von Dohm's, prepared in 1800, which embodies his idea of a plan for federating North Germany under Prussian leadership. Colonel Massenbach in his *Memoiren zur Geschichte des Preussischen Staates*, iii, 201-229, publishes a German translation with some alterations of his own and adds notes (see Gronau, *sup. cit.*, p. 374, note 1). After a sweeping review of conditions in 1800 in which he dwells on the advantages Austria is likely to obtain from her recent treaties with the French, and the constant danger in which Germany stands now that foreign war has become practically the condition of internal peace in France, von Dohm in his memoir goes on to consider the means by which Prussia may secure herself and strengthen her power. He repudiates the idea of partitioning or annexing minor powers which are found unable to defend themselves. Such a proceeding might be necessary in South Germany, but in the North the states felt no pressing danger from France and were too independent and too strongly attached to the existing state of affairs to be treated in any such summary fashion. Aggression would drive them to union in defence of their common interests. As the old Empire is practically dissolved, it is better to lead these states into a new league with Prussia at its head. Not the least of the advantages of such a plan would be its return to the ancient German federative principle which had been unwisely abandoned during the past two centuries of state sovereignty.

The primary problem in forming such a confederation would be essentially that to which the Philadelphia Constitutional Convention addressed itself—the comparison is mine—namely, the determination of the spheres of central and state government and their definition so that conflict might be avoided.

The area to be included in the new confederation should be that protected by the Demarcation Line which might well be extended to the Main and ought, in any case, to include Hesse-Cassel. In order to give due recognition to the more powerful states included, von Dohm is

and such a mission as von Dohm's is enlightening in its failures. Five weeks to arrange with a dozen petty powers the support of 45,000 soldiers for three months, and the almost complete shipwreck of a policy by the

willing to divide his confederation into four sections, in each of which Prussia, Saxony, Hanover and Hesse-Cassel shall have certain military and political prerogatives.

Despite all the difficulties of whose existence no one had a keener appreciation than von Dohm, that optimistic Prussian hoped the union might be formed. Success is assured, he said, to those who labor for what all see is a necessity. Let Prussia be judicious in securing the definition of its rights, and firm in claiming them once they were agreed to. Thus the small states would be prevented from exceeding their powers while, on the other hand, they might rest secure in the rights reserved to them. A federal treasury and army should be formed to provide for the common defense. He then outlines a detailed plan for the military defense of the confederation. To treasury and army all states and all classes within the states should contribute without distinction or privilege.

For each section there was to be a council of deputies to direct the expenditures of the section's treasury and attend to other matters. The affairs of the whole confederation were to be directed by a Prussian minister acting in conjunction with the princely heads of the other sections. A new judiciary was to replace the old Imperial courts and differences between the states were to be arbitrated by a court whose members were named by the states.

When its details are worked out, von Dohm feels sure his plan will prove feasible because "*Notre Système actuel de la neutralité du Nord d'Allemagne en a déjà fourni l'exemple sous des conditions beaucoup moins favorables. Il a frayé le chemin pour un Système plus étendu et permanent.*" The italics are mine.

Von Dohm concludes with some statesmanlike suggestions as to the selection and arrangement of secularized indemnities with a view to conducting that matter so that the federative idea might be furthered. Let Prussia in this, and in the conduct of the whole matter, show the purity and disinterestedness of her intentions and all Germany will declare for the plan. He then points out how the foreign powers may be brought to see their advantage in favoring a North German Confederation under Prussian leadership.

[I am indebted to my friend, Prof. T. W. Todd, of Washburn College, Topeka, Kansas, for his kindness in making me a copy of this plan from Gronau's work in the Royal Library in Berlin.]

short-sightedness of the state most interested next to Prussia in its execution, show what conditions existed in the Germany of the eighteenth century. When the circumstances are clear, we must feel that it was a triumph for von Dohm to have arranged, by June 1, the

The words which I have italicized recall a passage in Massenbach's *Memoiren*, ii, 217 (*cf.* also p. 103), written supposedly in Feb., 1796. After stating that Prussia has only to observe the strictest neutrality in order to assure herself of similar self-restraint on the part of the French, he concludes: "Dann aber blühet die Wohlfahrt unserer westphälischen Provinzen unter den Stürmen des Krieges und das westliche Deutschland, das uns Schutz und Sicherheit zu danken hat, gewöhnt sich nach und nach an die Bande, mit welchem wir es sanft umschliessen. Eine Föderation Preussens und der Staaten des westlichen Deutschlands wird Bedürfniss für Preussen."

According to Treitschke (*Deutsche Geschichte im Neunzehnten Jahrhundert*, i, 181) this plan of von Dohm's was first presented by him at the Congress of Rastatt in 1797. Gronau (*sup. cit.*, pp. 373, 374) in discussing the origin of the plan says that shortly before von Dohm left Halberstadt he had a conference with the Duke of Brunswick and another distinguished German prince (possibly the Duke of Weimar, *cf.* Häusser, *Deutsche Geschichte*, ii, 490 ff, fourth edition) concerning the critical situation. They encouraged him to frame his ideas and lay them before those in authority. The result was the above plan written in the first weeks of his stay at Harburg. (The copy in the Berlin archives is dated Halberstadt, Nov. 7, 1800. See Häusser, *sup. cit.*, ii, 490, footnote). It seems to have been sent to the smaller provinces without effect. That it was not forgotten in Hanover nor very favorably received, is evidenced by the fact that in December, 1801, Münster, the Hanoverian envoy to St. Petersburg, presented it to the Russian government as a proof of the wide-reaching plans, inimical to the interests of Russia and of North Germany, which were cherished in Berlin.

The plan of the Duke of Brunswick for dividing the Empire between Prussia and Austria is mentioned in the despatches of Lord Carysfort for October 21 and November 1, 1800. (*English Record Office.*) The English ambassador states that the plan had the approval of Haugwitz. It should not escape the reader that the date of Carysfort's despatch is about the time of the appearance of von Dohm's plan. Hudelist, the Austrian agent in Berlin, contended, in 1799, that the neutrality system was founded and maintained with a view to the dissolution of the Empire. See his despatch in Bailleu, i, 557, 558. To any one interested in

question of temporary supplies for the Demarcation Army. He was then able to turn to the Congress of Hildesheim and the host of questions it crowded upon him.¹

considering further the possibilities of the neutrality system, the words of King Frederick William III., possibly only royal flattery, may be of interest. They were spoken to Capt. von der Decken, the Hanoverian special envoy, in the crisis of 1801. The king said: "Er wünsche, dass das durch die Demarkations-Linie angefangene System auch nach dem Kriege fort dauern möge, und eine bleibende Verbindung zwischen den protestantischen Staaten fort dauern könne. Es wäre ihm darüber verschiedene Pläne überreicht, und er wünsche auch meine Meinung zu hören." See von der Decken's report of March 24, 1801, in *Cal. Br. Des. 24 Brandenburg-Preussen*, no. 585, *Hanover Archives*.

Treitschke (*sup. cit.*, i, 144) closes his paragraph on the treaty of August 5, 1796, with these words: "Die Gedankenarmuth der Berliner Politik versuchte kaum ernstlich, die thatsächliche Herrschaft, welche der Staat im Norden besass, zu einer staatsrechtlichen Hegemonie auszubilden; und doch liess sich der Friedensschluss nur dann entschuldigen, wenn man ihn benutzte um in Norddeutschland die Politik des Fürstentbundes wieder aufzunehmen." This comprehensive but cautiously stated judgment should be examined and interpreted, it seems to me, in the light of the material given in this note and in the account of the formation of the Demarcation Army and the Congress of Hildesheim. See also note 1, p. 173 and p. 174, note 3.

¹ Since the completion of this monograph there has appeared the fifth volume of Sorel's *L'Europe et la Révolution Française* with the subtitle *Bonaparte et le Directoire, 1795-99*. Though appreciating fully the importance of the Franco-Prussian relations in this period, (cf. for example p. 28) the author of the excellent articles on the treaty of Basel and the neutrality policy already cited has given rather less space than might have been expected to the Prussian neutrality system and adds nothing new to the work already done by himself and Dr. Bailleu in this field.

CHAPTER V—APPENDIX A

The following letter of the Regency to King George in London throws so much light on the general situation that I have considered it worth making public. I am indebted to my friend, Dr. Victor Loewe, of Hanover, for the copy given below. The letter is dated May 8, 1796:

“..... Auf diese anderweite Note ist bald darauf mit einer Staffette eine Depeche des Hofraths von Ompteda gefolget, welche er, um einer gleichfalls abgehenden Preuss. Staffette zuvor zu kommen, nur in simplo hieher abgelassen hat, und wovon wir demnach die Abschrift E. K. M. hiedurch in Unterthänigkeit vorlegen. Nach solcher hat der Minister Graf von Haugwitz, (der übrigens von der hier dem von Dohm ertheilten Antwort noch keine Kenntniss gehabt), ihm in einer eigens dazu verlangten Conferenz die Eröffnung gemacht, dass nach den dringenden Umständen das rassemblement der Truppen entweder unverzüglich geschehen, oder diese mesure völlig aufgegeben werden müsse, dass daher man Preuss. Seits genöthiget sey, sich binnen einer bestimmten Termin von zehn Tagen die diesseitige Erklärung wegen der provisorischen Verpflegung zu erbitten, und dass dazu der von Dohm den schleunigsten Auftrag erhalten werde. Dabei ist selbiger dann ausführlich in die Betrachtungen hineingegangen, nach welchen, wie er vermeint hat, die gegründete grösste und nach Besorgnis von Frankreich jetzt vorhanden sey, wie E. K. M. aus der Depeche selbst in mehrerem zu ersehen, geruhen werden.

Indem wir damit uns in der Lage befunden, eine Entschliessung fassen zu müssen, die in Ansehung der mit dem Preusse.

Hof zu nehmenden mesures vielleicht entscheidend seyn dürfte: so wird unterdessen von E. K. M. aus dem Berichts Psto. des Hofraths von Ompteda vom 30. April wahrgenommen seyn, wie der Minister Graf von Haugwitz sich gegen ihn über die Lage der Umstände mit Frankreich und über die Gesinnungen des Preuss. Hofes viel vollständiger und viel zusammenhängender geäußert gehabt hat, als es vorhin noch nie geschehen gewesen ist. Daraus ergibt sich erstlich, dass Frankreich geflissentlich die Negociation wegen der Neutralität zu trainiren, und in einer Ungewisheit zu lassen sucht, um darunter freie Hände zu behalten. Es lässet zweitens keinen Zweifel übrig, dass es insonderheit feindseelige Absichten gegen E. K. M. teutsche Lande heget, und den Preuss. Hof dahin zu disponiren trachtet, wo nicht in die Absichten mit hinein zu gehen, doch in einer gewissen Gleichgültigkeit dabei zu bleiben, Und drittens scheint es jetzt der ernstliche Wille des Preuss. Hofes zu seyn, der von Frankreich gegen das nordliche Teutschland überhaupt gerichteten Intention sich mit Nachdruck zu widersetzen, und dabei aller Anstoss gegen den römisch. kaiserl. Hof möglichst zu vermeiden.

Der in diesen Tagen in seinen privat Angelegenheiten hier gewesene Preuss. Minister von Hardenberg hat in mündlichen Unterredungen alles dieses mit Anführung von noch viel mehrern speciellen Umständen bestätigt, wobei er zugleich im Vertrauen erläutert, dass das bisherige schwankende in dem System und den Maasregeln zu Berlin, welches er nicht *entkennt*, theils aus den differenten Opinionen in Ministerio und theils daher rühren, dass, gegen seine jederzeit gehegte Meinung, man Anfangs immer geglaubt und gewünscht habe, auf die französischen Aeusserungen bauen zu können, die dann in der Folge bald verändert, bald verdrehet, bald wiederum erneuert, und bald im Grunde völlig zurückgenommen wären. Insonderheit hat er von der Lage der Dinge zu Berlin folgendes im engsten vertrauen zu erkennen gegeben. Es wären daselbst, ausser der Partei des Printzen Heinrich, deren anstössige politische Grundsätze der König mit einer Art von Indigna-

tion ansehe, zweierlei Parteien vorhanden. Die eine Partei halte dafür, dass Preussen sein Interesse von dem nördlichen Teutschland und von dem Interesse E. K. M., als Churfürsten, durchaus nicht trennen, gegen Frankreich eine starke Sprache führen, und imposante Maasregeln nehmen, und solchergestalt das gemeinschaftliche Armement aufstellen lassen müsse; und von dieser Partei sey der Minister Graf von Haugwitz, der General-lieutenant von Bischofswerder und auch der Prinz von Preussen.¹ Die andre Partei hingegen, an deren Spitze der Minister von Struensee² sich befinde, und wohin ebenfalls der Cabinets-Minister von Alvensleben inclinire, hege die Meinung, dass man Preusse. Seits die ganze convention additionelle des Baseler Friedens fahren zu lassen, nur die eigenen Preuss. Lande zu salviren, wegen des übrigen nördlichen Teutschlands aber sich nicht gegen Frankreich zu stellen habe, und damit die schweren Kosten des Armements erspart werden könnten und würden. Gegenwärtig habe die erstere Partei und Meinung das Uebergewicht nach der persönlichen Denkungsart des Königs; fänden sich aber in der Ausführung davon zu viele und zu mannichfaltige Schwierigkeiten, so könne man nicht gewiss seyn, dass selbige sinken und die andre Meinung oben kommen mögte.

Wenn man dieses nun auch dahin gestellt seyn lasset, so bleibt es allemahl jedoch unter den vorhandenen Umständen das wesentliche Interesse E. K. M. Sich für Ihro teutsche Lande des Preussischen Hofes zu versichern, und selbigen hieher fest zu halten. Es wird dadurch die Sicherheit und

¹ Later King Frederick William III., not to be confused with Prince Henry of Prussia, who favored the French.

² On Struensee's views, see report of the French Agent Otto, August, 1799. Bailieu, i, 505. Before accepting the views there presented, one should read the report of the Austrian envoy, in Bailieu, i, 535, 536. Time must have softened Haugwitz's feeling toward Struensee if any such opposition ever existed, for Haugwitz, in his *Memoires*, refers to Struensee in the kindest and most loyal terms as his mentor and the supporter of Haugwitz's system of neutrality. See Ranke, *Works*, 47, 304, "Notiz über die Memoiren des Grafen von Haugwitz."

die Abwendung der Gefahr der hiesigen Lande auf eine gedoppelte Weise erreicht, und so zu sagen entschieden. Einmahl nemlich, weil mit der Assistenz des Preusse. Hofes, zu deren Leistung derselbe seine Verbindlichkeit dermalen nicht *entkennt* und bereit ist, man zuverlässig stark genug seyn wird, um eine intendirende feindliche Invasion abzuhalten. Und zweitens vornemlich, weil nach der höchsten Wahrscheinlichkeit, so bald die hiesigen Truppen mit Preussischen Truppen zusammen stehen, französischer Seits schwerlich einst ein Angriff und eine Zurückwerfung der letztern gewagt werden wird, um sich nicht eine offenbare Rupture mit Preussen zuzuziehen. Dahingegen wenn möglicher Weise Preussen hier zurück bliebe, es eines Theils mit der hiesigen Sicherheit ganz auf die Zulänglichkeit der eigenen Vertheidigung allein beruhen, und andern Theils es dann doch wenigstens immer von Seiten Frankreich zu einem Angriff und zu wirklichen Hostilitäten kommen, und von deren ungewissen Ausgang die Sicherheit E. K. M. Lande gänzlich abhängen würde.....”

CHAPTER VI

FOUNDING NEUTRALITY AS A SYSTEM (*Continued*)

HAVING in earlier chapters outlined the withdrawal of Prussia and her neighbors from the continental struggle, and the failure of their attempts to have a definite neutral zone established with a self-enforcing boundary line, it was found necessary in the preceding chapter to sketch the inception of a plan for securing what the *convention additionnelle* of May 17, 1795, had promised but not attained. That plan, as we have seen, had two sides. The one was outward toward France, and negative, involving the negotiating of a treaty by which France bound herself not to violate the neutrality of the area for whose non-participation in the war Prussia made herself in a sense responsible. The other side was that turned toward North Germany, and necessitating certain positive measures, that is, the organization of an Observation Corps or Demarcation Army to make the negotiated line respected, and also the finding, in co-operation with the States protected, of some means of supporting that army. It will be the object of this chapter to follow the consummation of the efforts initiated by Prussia for the founding of a system of neutrality, and, if space permits, to follow briefly the history of that system till the year, 1801, when, with its right to exist called into question by the treaty of Lunéville, it met an inglorious end at the hands of the power which had called it into being.

The central and most positive thing in the task Prussia

undertook was the formation and support of an army that should guard the line of the Ems and Weser. The idea of creating such a defensive force was not a new one when Haugwitz broached it to Ompteda early in December, 1795.¹ As early as October, 1795, the Duke of Brunswick had been urging such a force as worthy England's encouragement by subsidies,² and the Saxon ambassador, Zinsendorf, had opened the subject to von Ompteda in the same month.³ Tracing the idea back to its source we come to see, as did some of the statesmen of the day, that an army of defense was a necessary complement to the projected neutrality.⁴ The Hanoverian who, as Prussia's agent at Basel, had negotiated the first neutrality, secured the introduction of the Demarcation Line, and had made himself an effective force in arousing his native state to the responsibilities she must assume in the grave crisis of these months in 1796, is certainly among the first to couple the idea of neutrality by force of arms to the idea of neutrality by treaty. In his memoir, dated at Frankfort January 13, 1795,⁵ Hardenberg clearly exposed the danger of violation that an extended neutral zone sustained. His remedy was the formation of two Armies of Observation—one French, the other to be composed of contingents from the neu-

¹ See von Ompteda's despatch of December 5, 1795.

² See letter of Wallmoden's to Duke of York, Nov. 4, 1795, transmitting the Duke of Brunswick's letter (*English Record Office, Brunswick, Foreign and Domestic, vol. I, 1785-1800*).

³ On October 11. See von Ompteda's despatch of Oct. 25, 1795.

⁴ See Haugwitz's memorial in Bailieu, i, 267.

⁵ Massenbach, *Memoiren*, ii, 315-324. Almost twenty years before, Hardenberg, as a Hanoverian official, had discussed with the representative of Frederick the Great this monarch's plan of forming just such an army to protect Hanover against the danger of a French invasion in 1778-79. See Ranke, *Hardenberg*, i, 48-49.

tralized German states.¹ But the idea came to naught. The withdrawal of Hohenlohe's corps from around Frankfort showed how ready Prussia was to avoid any clash with either France or Austria. To have maintained unaided the original line by a Demarcation Army would have involved Prussia in expenses almost as great as those which had exhausted her treasury during the war. Even with a less extensive area to defend, we have seen how incapable of utilizing Prussian resources by an adequate system of taxation,² the Prussian minister of finance, Struensee, had shown himself. But the army was an essential element in the neutrality system, Haugwitz's "enfant chéri"; and the army depended, under existing circumstances, on what Hanover and the minor states of northwestern Germany would do to support it. How was their co-operation to be secured?

Haugwitz, writing of this period several years later, called it one of the most embarrassing situations in which Prussia had ever been placed.³ "The fate of Prussia hung by a thread," said Massenbach. It was in this situation that Haugwitz fell upon the idea of reviving the Diet of the Circle of Lower Saxony, which had not met since 1682. The subject was discussed with von Dohm⁴ as the man best qualified by his knowledge of the German constitution to undertake its calling and direction.⁵ After having arranged for the temporary

¹ This idea Hardenberg continued to favor. See his letter of November 22, 1795. Bailleu, i, 33, 34.

² Cf. also article on Struensee in *Allgemeine Deutsche Biographie*.

³ Haugwitz's memorial of Jan. 5, 1799, in Bailleu, i, 265 ff. (Cf. p. 267.)

⁴ Von Dohm's instructions refer to it as discussed at Magdeburg. See also von Albensleben's *Denkschrift* in Bailleu, i, 153.

⁵ "Von Dohm ist lediglich ein Publicist der genau die deutsche Con-

support of the Demarcation Army, von Dohm was directed to issue a call for a congress at Hildesheim of the states of the two Circles, Lower Saxony and Westphalia, which were interested in maintaining the Demarcation Line. The contumacy of the Hanoverian Regency and the petty spirit of other states at the Brunswick conference had delayed von Dohm's issuing the call for a meeting of the Circle of Lower Saxony.¹ By May 21, however, the situation allowed him to issue a call for a meeting at Hildesheim, June 20, of accredited delegates from "the states within the new Demarcation Line."² On June 22,³ the Congress of Hildesheim held its first session.

"The Congress of Hildesheim deserves unquestionably to be ranked among the most remarkable events of the times," says Häberlin in 1796, and adds—how characteristic of men in the shadow of that venerable legal leaning tower, the Holy Roman Empire—it "offers a rich field for the discussion of legal questions."⁴ And the discussions came. Could one doubt but that men who debated endlessly on questions of precedence and the importance of distinguishing it by red plush chairs and green plush chairs, would seize the occasion to utter ponderous, "reichsrechtliche" opinions on all conceivable

stitution kennt u. den Inhalt aller Reichs-Fundamental Gesetze sich zu eigen gemacht hatte. Ein genialischer Kopf ist er nicht, jedoch sehr brauchbar als Instrument." (V. Cölln.) *Vertraute Briefe*, vol. i, 12 (Amsterdam, 1807).

¹The call is published in Häberlin, *Staatsarchiv*, i, 393-395. A copy of this call dated April 22 is in the Hanoverian Archives.

²Häberlin, *Staatsarchiv*, i, 395-396.

³Bailleu, i, 153. Just a month after the date suggested in von Dohm's instructions.

⁴Häberlin, *Staatsarchiv*, iii, 45. This magazine put itself on record as an exponent of the Congress and the ideas it represented.

phases of the Congress's formation and activity? Such an innocent phrase as that quoted from the call for the Congress—"to the States of the Empire included in the new Demarcation Line"—represents as much discussion and diplomacy as a case before the Hague Tribunal. Nobody knew of a precedent for a joint session of the Diets of the two Circles, and as all the states of Westphalia were not comprehended in the Line, how could the representatives of those who were, be allowed to sit at the same table with the Diet of Lower Saxony? Hanover objected to such an irregular way of increasing the membership of the Diet of Lower Saxony, as it would have made it less possible for Hanover, Prussia and Brunswick to control its deliberations. The voting power of small states would have been increased, and these states were anxious to roll the main burden upon the Electorate whose connection with the crown of England, they held, brought them all in danger.¹ But the form finally decided on² was that of a joint conference of the Diet of Lower Saxony and of the representatives of the *interested states* of the Diet of Westphalia. These two groups of delegates held separate sessions with von Dohm as representative of Magdeburg to the Diet of Lower Saxony and extraordinary plenipotentiary of the king of Prussia to the conference of Westphalian states.

¹ See Gronau, *Christian Wm. von Dohm*, 306, foot note (Lemgo, 1824).

² Von Dohm's reports and instructions up to June 29, 1796 in *R. 67, B. 19, vol. II. (Berlin Archives.)* The instructions dated June 18, approve the *Kreistag* form as long as Hanover prefers it. They insist, however, that von Reden only represents the elector of Hanover, in which case von Dohm who represents Frederick William II., as king, elector and member of the Empire, must take precedence over Hanover's delegate.

Thus as a delegate to both sections of the conference, he passed from one table to the other to lead the discussions.¹

A dozen petty questions had to be settled, not the least annoying of which was the question of precedence raised by the Hanoverian delegate, von Reden, whether he, as representative of the king of England, ought not to outrank other delegates.² How were the contributions to be apportioned, according to the ability of the states to pay, or according to the degree of danger they were in from a French invasion?³ Should class privileges exempt any individual within the lines of the participating states?⁴ In view of certain cessions of Charles XII. of Sweden in 1712, did the representative of Magdeburg, von Dohm, or the representative of Bremen, von Reden, have the best claim to exercise the right of *Directorium agens*?⁵ To von Dohm and his government, all matters of form and ceremony were indifferent.⁶ What they wanted was action. There was but one question before the Congress: Would it agree to support the army Prussia offered for its protection? To this one thing, said Haugwitz, let them confine their

¹ Gronau, *von Dohm* (*sup. cit.*), pp. 308, 309.

² Possibly a more annoying action was that of the delegate from the city of Bremen at the conferences in Brunswick in making himself the mouth-piece of Reinhard, the French envoy to the Hanseatic cities. Reinhard even proposed to attend the Congress. See the reports of von Dohm cited in the preceding chapter. On the French attitude towards the Demarcation Army see *Hist. Zeit.*, 1884, 415-416, also Sandoz despatch in Bailleu, i, 66-67.

³ Häberlin, *Staatsarchiv*, iii, 45.

⁴ See note below.

⁵ Cf. Gronau, *von Dohm*, 306.

⁶ Cf. Instructions to von Dohm dated Berlin, June 29 (*Berlin Archives*).

deliberations,¹ understanding always that it was a Prussian offer, not a Prussian guarantee, they were accepting.²

The history of the deliberations at Hildesheim is a better exhibition of the energy and fidelity of the Prussian envoy than it is of the business-like methods which his government commended, or of the patriotic spirit which men of wider vision strove to instill.³ Its first session lasted from June 22 to September 1, 1796. It met a second time February 25, and adjourned never to meet again, June 21, 1797.⁴ It arranged for the support of the troops of the Demarcation Army, fixing the share of each contributing state and arranging for the delivery of supplies and funds every three months. It audited accounts, and when provinces failed to pay it relieved the delinquent, if the excuse was accepted, and redistributed shares to make good the deficit. Practically von Dohm *was* the Congress, and with its disappearance in June, 1797, he did without it what he had attempted to do with it, namely, arrange the *Verpflegung* of the Demarcation Army.⁵

¹ Whatever possibilities the Congress of Hildesheim may have offered of founding a North German Confederation, it is well here to remind ourselves just what Prussia had in mind in convening it. The following passage from von Dohm's instructions of June 18 is unequivocal: "Hiebey ist unsere festen Willensmeinung, dass der vorsehende Convent, welche Form er auch erhalten möge, sich lediglich nur mit dem einzigen in den Convocationen angedruckten Verpflegungsobject beschäftige und werdet Ihr alle mit diessem nicht in nothwendiger unumgänglicher Beziehung stehende Gegenstände die etwa angeregt werden wollten ganz unbedingt von der Hand weisen."

² Instructions to von Dohm, June 29 (*Berlin Archives*).

³ *E. g.*, Häberlin's *Staatsarchiv*, iii, 46-48.

⁴ Von Dohm's reports and Gronau's *von Dohm*, 314, 316.

⁵ The archival material on the Congress after June, 1796, is surprisingly scarce. Häberlin's *Staatsarchiv*, vols. iii, iv and v, contains some account of the proceedings of both sessions. Vol. iii is the most valuable

The importance of the Congress lies not in its deliberations, but in its connection with the general plan of putting neutrality on a solid basis, and in the possibility, not unperceived at that time, of developing it into a permanent legislative body for a North German hegemony under Prussian leadership. Haugwitz was directing Prussian policy at this time on the supposition that the Empire was dissolved, and that each state was free to seek its own selfish interest.¹ But though the exigencies of a financial difficulty had revived and modified an old legislative expedient, there were no men like Henry II. of England in the Prussia of those days to develop from it a political confederation or a *Zollverein*.² Many men of the time saw possibilities of new combinations of German states, and naturally enough thought along the lines in which Frederick the Great and his Fürstenbund had trained them.³ But the dominance of non-German ele-

on the subject. The subject of the Congress of Hildesheim will be treated in a dissertation by Herr cand. phil. Ad. Schulze of the University of Göttingen.

¹ Conversation with Haugwitz reported by von Ompteda in his despatch of August 20, 1796. (*Hanover Archives*.)

² In von Dohm's instructions of April, 1796, is a paragraph on the desirability of the free exportation of grain among the associated states, particularly if accompanied by measures against grain exportation to non-associated lands. It is insisted that all states be bound by majority rule and if any state does not contribute, it is to be proceeded against militarily. Obstreperous subjects in any state are to be put down at once by Prussian troops at von Dohm's call.

³ See, *e. g.*, Massenbach, *Memoiren*, ii, 103. Haugwitz often defined his object as that of making the king of Prussia "the Emperor of North Germany," *cf.* *Denkwürdigkeiten . . . Hardenbergs*, ii, 13. This is doubly interesting when brought into connection with the plan of dividing the Empire, which, according to Lord Carysfort, Haugwitz and the Duke of Brunswick had drafted and discussed. Grenville, then in Berlin, on a special mission to secure Prussia's participation in the Second Coalition, writes, June 11, 1799 (*English Record Office*), "Whatever

ments such as Russian influence and Polish interests,¹ hindered the development of a solid structure upon the Hildesheim Congress, which Haugwitz himself once designated as a corner-stone upon which to erect Prussian dominance in North Germany.²

Meanwhile there had been arranged at Paris and in Berlin the treaty by which the French acknowledged the Demarcation Line which the Prussians were so anxious to establish, and the Prussians accepted the French condi-

may be the decision of this Court upon the question of War with France, I cannot believe that they will ever be sincerely willing to abandon their favorite System of Neutrality for the North of Germany: I am indeed persuaded that they look to that system not only as offering to them security against a French War, but that they consider the Power or Influence of Prussia in Europe, as well as in the Empire, to be considerably increased by this German Confederacy in which Prussia [has] the Weight and Influence of all who accede to this their favourite System and I have thought that I have observed that in every Plan of general Concert and of final Arrangement which Count Haugwitz has ever discussed with me, this Prussian Confederacy in the Empire has always shown itself to be the most prominent feature in his political Conversations." Haugwitz, in his *Memoires* (Ranke, *Works*, 47, 305), written after his retirement, says: "Les liens qui réunissaient la Saxe, le Hanovre, la Hesse et les autres princes dont les états se trouvaient à l'abri de la ligne de démarcation se basaient sur la sûreté et l'intérêt commun. Revenu de ces fausses idées dont autrefois on avait farci les têtes, de ces idées extravagantes, de prétendue dignité et de gloire, l'aigle prussien couvrait de ses ailes ses états voisins sans charger le sien du poids de ses efforts. Ce fut alors qu'il remplissait sa haute destinée."

¹ The chapter on the Prussian occupation of Hanover in 1801, indicates how Russian interference put a bar to the development of a Prussian hegemony. Dr. Bailleu suggests Polish interests, which from the time of the treaty of Basel had diverted Prussian energies from the German field.

² Cf. his memorials of Jan. 5, 1799, and Oct. 28, 1799, in Bailleu, i, 268 and 343, 344. Also Dr. Bailleu's essay in *Hohenzollern Jahrbuch*, 1897. Wohlwill, in the essay already referred to in *Hist. Zeit.*, 1884, 415, considers the Hildesheim Congress one of the efforts at Prussian-German unification which has not been sufficiently studied.

tion, that is, the unconditional surrender of the west bank of the Rhine, with indemnification of the German powers, by giving them secularized lands on the right bank.¹ The surrender of their plans on Hanover and the Hanseatic cities, through whose seizure and exploitation they might hope to replenish their treasury while dealing the crown and commerce of England a telling blow, was the great sacrifice the French made.² They did it hesitatingly and unwillingly. They would have much preferred, if they could not occupy it themselves, to have divided the Electorate³ or to have turned it over to Prussia for herself⁴ or for the indemnification of the Prince of Orange.⁵ The acceptance of the Demarcation Line meant not only a lessened area for French military operations, but the approval of Prussia's plan to station a considerable force in the lower Rhine region threatening Holland.⁶ It meant also that Hamburg could not be punished for its refusal to receive a French envoy.⁷ All long-cherished plans for attacking the Electorate must be laid aside,⁸ and such a concession, in view of

¹ Copy of the treaty in DeClerq, *Recueil des Traités de la France*, i, 275 ff. Hüffer notes that in the fall of 1795 a German offered a prize of 4,000 fr. for the best essay on the reasons why France should have the Rhine as a border and the prize was won by a former Prussian official. Hüffer, i, 197.

² Rewbell to Sandoz. Bailieu, i, 45, 66.

³ Reinhard to Hardenberg, *Hist. Zeit.*, 1884, pp. 412, 413.

⁴ Hüffer, i, 308.

⁵ Barthélemy, v, 205, 206.

⁶ *Hist. Zeit.*, 1884, 416.

⁷ Bailieu, i, 67.

⁸ Documents summarized by Wohlwill in *Hist. Zeit.*, 1884, 408 ff, supplement the reports in Bailieu, i, in showing the danger in which Hanover stood. The Directory rejected the suggestion of Caillard that they make a separate treaty with Hanover. See also Hüffer, *Diplomatische Verhandlungen*, i, 307 and Haugwitz memorial of Jan. 30, 1797 in Bailieu, i, 112 ff.

public opinion and military considerations, was no easier now than the preceding year at the treaty of Basel. But Prussia was insistent; oral promises would not suffice; and thus, aided by their great successes in the summer campaign of 1796,¹ they sold their favors at the highest price possible, namely, the Prussian approval of the cession of the left bank of the Rhine. Prussia, whose losses on that side were not heavy, received in return for its abandonment of an area that was distinctly Imperial the promise of territorial increase,² and, as a salve to the injury suffered by its pride when the treaty of Basel had failed to become an Imperial peace under Prussian leadership, it received the French acknowledgment of the neutrality of North Germany protected by a Prussian Demarcation Line and Army.³

The conclusion of the peace was a personal triumph for Haugwitz.⁴ To all the difficulties created by the French unwillingness to forego their plans against Hanover and the Hanseatic cities, had been added the reluct-

¹ See Hüffer, i, 208 ff. for a sketch of the military operations. It is to be noticed that they delayed ratification until Jourdan's reverses lost them what the summer campaign had gained. Haugwitz himself saw that the French victories threatened to put all Europe at their mercy. Cf. Bailieu, i, 269.

² Upon which they began to plan immediately. Cf. summary of von Alvensleben's *Denkschrift* in Hüffer, i, 309. The treaty promised them but a modest amount of secularized territory.

³ This, it seems to me, is the light in which one may best understand the policy and its defence by Haugwitz in his *Denkschrift* of January 30, 1797, in Bailieu, i, 112 ff.

⁴ That it was his work, see his own claim in Ranke, *Works*, 47, 284. See also Alvensleben's testimony in Bailieu, i, 152. He says that Haugwitz had received verbal orders from the king and that the other members of the department were in ignorance of the king's views and of the negotiations.

ance of his sovereign,¹ encouraged by more aggressive advisers like Hardenberg and Hohenlohe, and the activity of England and Russia seeking to draw Prussia into a coalition against France. That he had avoided these*

¹ See king to Haugwitz on July 9, 1796 in Hüffer, i, 309. On the 13th the king left for Pymont where the English agent, Hammond, planned to lay siege to him (Bailleu, i, 532). Hammond was encouraged by a conversation he had had on August 11 with the Duke of Brunswick at Minden. The Duke assured Hammond, ". . . . that from the different conversations which he had had with the King of Prussia, at Minden and Pymont, he perceived his Majesty's mind to be in a state of the greatest agitation, that his personal Hatred of the French had increased to an height almost incredible in consequence of the violation of their Engagements with Him as to the light in which the territory of Cleves was to be considered and of the separate Pacification which they had concluded with the Princes of the Empire without his intervention and on conditions so unjustifiably rigid that by the conduct of the French in this last point the Principal Object of the King in concluding the Treaty of Basle—the expectation of becoming the Mediator if not for Europe at least for the Empire—was entirely defeated. For these reasons the Duke considered the present as one of the most favorable periods that could have been chosen for the negotiations in which I was employed." Hammond's despatch of August 17, 1796 (*English Record Office*). The treaty with the French had been agreed on July 16, three days after the king left for Pymont, and its formal conclusion was delayed till August 5, awaiting Caillard's full powers. (Hüffer, i, 310.)

² His actions must have completely mystified the English. Lord Elgin's letters of May 9 and later, show Haugwitz listening encouragingly to offers of subsidies. The Duke of Brunswick told Hammond (*sup. cit.*) that Haugwitz and the king could be counted on for action if the opposition party did not start too many difficulties respecting the finances, and the danger from Russia and Austria in Poland. On Aug. 23, Haugwitz solemnly declared to Austria and England that Prussia neither had any other relations with France than Basel nor was she negotiating any. The secret provisions of the treaty of August 5, 1796 were first revealed to Russia in February, 1797. See F. Martens, *Recueil des Traités conclus par le Russie*, vi, 252-253. By the St. Petersburg-London-Berlin route they reached Hanover where the Regency had been seeking most anxiously to learn them, fearing that they concerned Hanover's fate by making it part of Prussia's indemnity.

without for a moment countenancing the pro-French views of Prince Henry and his party,¹ or being discouraged by the petty spirit displayed by the states whom he had drawn together at the Congress of Hildesheim, thus making possible the realization of his plans of a neutrality system, constitutes, in Haugwitz's own words, his claim to the gratitude of his countrymen.² He had, he thought, founded a "system which is to survive the present and live on to times most distant."³

An adequate account of that period of Prussian history covered by the neutrality system, to establish which Hardenberg and Haugwitz did so much, remains as yet unwritten. The limits of this brief study will allow only a sketch of one or two features of it in the years between 1796 and 1801. A paragraph or two on the Demarcation Army, and a mention of some of the occasions when the adherence of Frederick William III., if not that of his ministry, to the neutrality system, kept Hanover and North Germany free from the exactions of the French invader, is the extent of the outline which can be given in this chapter.

The army which finally gathered under the command of the Duke of Brunswick—the "Demarcation heroes," as the sarcastic ones called them—consisted nominally

¹ The Prince was as active as ever in the French cause. He had been writing the Duke of Brunswick on the subject of a Franco-Prussian alliance. Cf. Hammond's despatch of Aug. 17, 1796 (*sup. cit.*).

² See below.

³ Haugwitz's words. Cf. Ranke, *Works*, 47, 292; also p. 290. In his *Fragment des Memoires*, written as a reply to Walter Scott's *History of Napoleon*, and published in 1837, Haugwitz gives a glowing description of the neutrality system to which he adhered for twelve years. See p. 37 of the *Fragment*, etc.

of 25,000 Prussians under Blücher, 15,000 Hanoverians¹ under Wallmoden and Freytag, and several thousand Brunswick troops. It is likely that its actual enrollment fell below its nominal strength,² and that the system of furloughing still further reduced the strength as well as the expense of the force.³ The army was stationed along the line of the Weser with the commander's headquarters at Minden, where Stein was for part of the time charged with the duty of looking after Prussia's share in the provisioning. After the two sessions of the Congress of Hildesheim, von Dohm seems to have been the sole directing force in making the necessary arrangements. Hanover continued its efforts to lessen its expenditures on behalf of the Army, by urging its considerable reduction in strength.⁴ But certain dangers, real or exaggerated, enabled Haugwitz to keep the reluctant Regency up to its task;⁵ such were the constantly recurring

¹The composition of the Hanoverian Corps is detailed in the Regency's communication to Ompteda, March 30, 1796. See also on the subject, von Sichart, *Gesch. d. Königl. Hannoverschen Armee*, vol. 4.

²*Cf.* von Alvensleben's *Denkschrift* of Oct. 1, 1797, Bailleu, i, 153.

³*Cf.* Ompteda's report of June 27, 1797, in no. 549 (*Hanover Archives*).

⁴*Cf.*, e. g., Regency to king, Nov. 13, 1796, in no. 1126a, I.

⁵The burden of the army was considerable. The notes kept by von Dohm and used by his biographer show that from June, 1796, to the end of 1800, the expenditures for the Prussian troops were 9,264,384 thalers, of which the Prussian provinces paid 2,360,841 thalers. Including expenses of mobilizing, etc., the Prussian treasury, up to the end of March, 1801, had paid out, according to official report, 5,074,597 thalers, 23 gr., 4 pf. From the end of June, 1796, to the end of June, 1800, the other provinces, including Hanover, which, as we saw, paid at least one-half of the total cost, expended in provisions or cash, 5,246,555 thalers. *Cf.* Gronau, *von Dohm* (Lemgo, 1824), p. 376. In January, 1799, Haugwitz estimated the army at 50,000 men, including the troops of Saxony, and the cost to Prussia for its support since July 1, 1796, at 2,138,206

rumors of French plans, the example of Napoleon's dealings with Venice, the treaty of Campo Formio, which was thought to enable the French to pursue plans dangerous to the tranquillity of Hanover and the Hanseatic cities.

That the Army was never called from its scattered cantonments to play an active part in history-making, cannot be explained by the wholly tranquil course of affairs between 1796 and 1801. The very foundation of the neutrality system was racked and strained in the vortex of diplomatic intrigue which found its center in Berlin.¹ With contending armies hurrying forward to battle on every frontier of the neutralized area, and hostile diplomats exerting every pressure to draw Prussia as an ally back into the camps of war, the maintenance of neutrality did not signify the supineness so often pic-

crowns (ecus). Councilor Rose, speaking in 1832, estimated the cost of the Demarcation Army at 5,000,000 thalers. Quoted by Fr. Thimme, *Innere Zustände des Kurfürstenthums Hannover*, i, 38, note 2.

¹ Siéyès arrived in the summer of 1798 as ambassador from France with the special object of securing Prussia's co-operation with France. Bailleu gives the necessary documents for following his efforts. See also Ranke's account in his *Hardenberg*, i, pp. 401 ff. Early in the same year General Stamford, who, though representative of the Prince of Orange, was in English pay, and M. Deluc, the French teacher of Queen Caroline of England, arrived in Berlin with a plan of an English-Prussian alliance, which the Berlin cabinet rejected. Then, in 1799, came Th. Grenville, as special envoy with the avowed object of rousing Prussia to action with the allies. The story of these unsuccessful missions is to be found in the despatches of Elgin and Grenville, in the *English Record Office, Foreign Office, Prussia*, nos. 47-55. The mission in 1798 is the beginning of Deluc's diplomatic activity which continued in Berlin for several years (*vide* following chapter). Deluc, who as a Swiss scholar had shown Rousseau the Castle of Chillon, and who at ninety listened approvingly to the reading of Byron's description of the castle (Byron to Murray, April 9, 1817, Th. Moore, *Life of Lord Byron*, p. 350 [London, 1844]), is an interesting figure to whom the writer in the *Dictionary of National Biography* does scant justice.

tured. Effective neutrality meant readiness for aggressive war. The leading statesmen of Prussia in the period had shown their appreciation of that fact in the early discussion of a Demarcation Army, and the sponsor for the system, Count Haugwitz, testified, as we shall see, still more clearly in the summer of 1799, that he had grasped the idea that a neutral Prussia could remain such only so long as it could be made to appear like a giant who had chosen to rest with arms in hand.

The period which ensued after Prussia had definitely established neutrality for North Germany granted the States behind the Demarcation Line the boon of a long-desired peace. For the next ten years, while the rest of Europe was the battlefield of contending armies, Prussia and the coterie of states her new German policy had gathered around her, enjoyed an intellectual and commercial renaissance. The fertile fields of North Germany from Silesia to Hamburg became the granary from which the warring powers drew their supplies. The commerce on the great rivers and in the ports at their mouths, the neutral and contraband carrying trade on the high seas, added to the wealth that poured into this peaceful isle amid the swirl of revolutionary wars. "Prussia . . . became the center where immense fortunes from France, the Netherlands, Holland, a part of Germany, from Switzerland, and even from Italy, were successively deposited as in a place of safety, so that the overflowing banks and treasuries of Berlin offered but three per cent. on the funds which elsewhere yielded the depositors four, five, and even six per cent."¹ In matters of culture the period of neutrality must be reckoned the most productive

¹ Report of Hudelist, Austrian attaché, Sept. 9, 1799. Cf. Bailleu, i, 558.

in the history of German literature. History, poetry, the drama, art, philology, philosophy and political science found havens in the peace-encircled courts and universities of North Germany. Names which posterity might never have known in their full grandeur had the land been a prey to the rapine and exhaustion of war, fixed themselves forever in the galaxy of Germany's great. Kant, Fichte, Schelling, Voss, Wolf, Goethe, Schiller—these names testify to the fact that Germany in the period of neutrality was laying the foundations for at least intellectual unity.¹

As one looks back over the period from the political point of view, Prussia seems to be slowly finding herself. Though dragged down by the alien Polish provinces, cramped by inherited institutions and social forms, and handicapped by the lack of incisive leadership, she appears, for the time being, to have set her feet in the paths that led to the political eminence which her previous history and her geographical position decreed to her. Weak and tortuous as the diplomacy of the Prussian statesmen seems at times, it must not be forgotten that there was more hope for the unity of North Germany under Prussian leadership in the declaration of the debauchee king, Frederick William II., that a French invasion of Hanover meant war, than there was in the whole reign of his great predecessor, who had callously invited the French to occupy Hanover in the very heart of his domains. If to this it be replied that Frederick the Great was the founder of a Fürstenbund, it may be well to remind ourselves that the aged monarch only sought union with his hitherto despised German neighbors as a last covert for Prussia in her European isola-

¹ Ranke, *Hardenberg*, i, 331-333.

tion,¹ and that the Fürstenbund, unlike the Neutrality System, never raised an army nor called together a legislative body.² It is only by directing our attention for a moment to the great transformations going on beyond the limits of Prussia's political influence that we shall be able to see why any internal weakness or wavering leadership would be disastrous in the prevailing condition of Europe.

It cannot be too often repeated that the events of the period we are considering, and especially of the years compassed by this study, must always be read by the light of the flames that rose and fell in the land beyond the Rhine and the Vosges. The conflict of parties in revolutionary France can be understood only after a study of the foreign problems over which they struggled, and conversely, the result of the domestic conflicts is the determining factor in shaping the issues of peace or war through which France so vitally affected the tranquillity of the rest of Europe. Despite the triumph of the radical faction in Paris in the fall of 1795, the party of the Moderates, whose watchword was the constitutional boundaries of France, had been able to maintain a considerable influence in the government. The preliminaries of Leoben (April 18, 1797), which contained a recognition by the French of the integrity of the Empire, though they were coupled with doubtful references to France's legal boundaries, seemed to warrant a hope that the Directory, to

¹ *Hist. Zeit.*, vol. xli (n. s. 5), p. 410 ff. *Der Ursprung des deutschen Fürstenbundes*, by Paul Bailleu. Students of Prussian history will be pleased to learn that Prof. Sidney B. Fay, of Dartmouth College, expects to publish soon his study on *Frederick the Great and the Fürstenbund*.

² Cf. the suggestive essay by Dr. Bailleu in the *Hohenzollern Jahrbuch*, 1897.

whose membership had been added Barthélemy the negotiator of the treaty of Basel, would leave Germany to readjust itself undisturbed by anything more than French interest in the matter of secularization and indemnification.¹ But there were many yet unsatisfied, ambitious spirits who were ill content to see France sinking back into the ways of peace. Most powerful of these was the young Corsican whose fortune-given sword was pushing hard at the door of Opportunity. The triumph of the peace party meant the closing of that door and the end of his dreams of power and empire. The treaty of Campo Formio (October, 1797,) and the coup d'état of the 18th Fructidor tell the story of his decision. The war spirit embodied in Napoleon Bonaparte had extended France's boundaries to the Rhine. Savoy and Nice were hers; Italy owned her power; the Ionian Isles, non-French territory, were the stepping-stones to Egypt; India and colonial empire rose above the horizon. At home the party of reaction was crushed. Barthélemy was in prison, Pichegru banished, Carnot in flight. The press was throttled, and priest and noble again felt the persecution of the old laws. The revolutionary government henceforth cowered under the shadow of the military genius it had placed at the head of its armies in Italy. The diplomats of Europe had now to reckon with an incommensurable factor. Systems that might once have prevailed against a Republic torn by internal factions would go down before the indomitable will of the one man who knew no law but his own boundless ambition. The outlook for the peaceful development of Prussia's attempt to find in a union of the states of North Germany the basis for a sound and steady political devel-

¹ Hüffer, *Diplomatische Verhandlungen*, i, 259 ff.

opment was darkened by the events of the epochal year 1797, which marks the union of the revolutionary movement with the genius of Napoleon.¹

The full significance of the events of 1797 was not at once apparent. The fact that Austria, whose leadership had hitherto kept the Empire involved in the war against France, had finally, like Prussia, concluded a separate peace with the Republic, gave new vigor to the long drawn-out movement for an Imperial peace. The first motion looking to such a peace had been made, as has already been mentioned, in October, 1794. Such was the Imperial Diet's method of treating subjects of importance, that not until July following was the matter put in its final stage. The result was that Prussia, much to the disgust of the Austrians, was associated with the Emperor in the work of opening the negotiations with France. This barren triumph of Prussia's was due, let it be remarked in passing, to the vote and influence of the Hanoverian delegate, von Ompteda, who here definitely abandoned the leadership of Austria for that of Prussia. As the matter really lay in the hands of the Emperor, nothing came of the appointment of a delegation of sixty-eight members, in which Hanover, as the Duchy of Bremen, was represented by Baron von Reden, then Hanoverian agent to the Upper Rhine Circle. At his side, as legal adviser, was placed the learned Professor Martens, of Göttingen, well known to modern scholars through his great *Collection of Treaties*. These appointments were made in October, 1795. In July, 1797, the Regency added to the delegation von Schwarzkopf, Hanoverian envoy in Frankfort. But the Electorate, which hoped, by an Imperial peace, to make still more certain its own neu-

¹ *Hohenzollern Jahrbuch*, 1897, p. 128.

trality in case England continued the war,¹ was obliged to wait until the victories of Napoleon over Austria and the treaty of Campo Formio prepared the way for the convening of the peace congress at Rastatt in November, 1797.

The disastrous end of the Congress of Rastatt in the murder of the French negotiators in April, 1799, has given it an immortality that not all its year and a half of fruitless negotiation could have secured it. Much has been published about its labors,² and great masses of unpublished material must lie in the archives of many a German principality. The reports of the pompous von Reden, the learned, legal arguments of his pedantic colleague, Professor von Martens, and the essays of that jovial young diplomat, von Schwarzkopf,³ reveal Hanoverian

¹In the years 1797 and 1798, particularly after the treaty of Campo Formio, Hanover was very apprehensive that the French would resume their plans for attacking Hanover as a means of bringing England to terms. See *Hist. Zeit.*, 1884, 420 ff. Though very desirous of closing the Elbe and the Weser to English commerce, the French were more interested in securing a Prussian alliance and would scarcely have found it good policy to violate the Neutrality System. The rumors of danger from the French generals in Holland were so persistent that King Frederick William III., uncertain what might be the effect on the Directory of his rejection of their offer of an alliance, was moved, in 1798, to give the Duke of Brunswick full power to repel any hostile French movement against Hanover or the Hansa cities. The letter dated May 17, 1798, is in Bailleu, i, 206-207. The subject of the danger from the French army and its ambitious generals occupies a goodly space in the despatches of the Regency during these years. It is interesting to note that this is the period when von Berlepsch was urging the French to invade his native state. About this same time there was submitted to the Directory a plan for erecting a republic in North Germany of which Hanover was to form the central part. Cf. *Hist. Zeit.*, 1884, 422 and 424.

²See Hüffer, *Der Rastatter Congress und die Zweite Coalition* (Bonn, 1878-79).

³See Ritter von Lang's *Memoiren*, pt. i, 318. Schwarzkopf's forty-six essays on the members of the Congress and on life in Rastatt are in *Cal. Br. Des.*, 11, E. II., 404 b (*Hanover Archives*).

policy as it passed from the high righteousness of insistence on the integrity of the Empire,¹ to the low level of bribing rival negotiators² in order that Hanover might be assured of its share of the plunder distributed as indemnification. Given their first opportunity to come in direct communication with the government at Paris, the Regency of Hanover showed itself as anxious as the Prince of Thurn and Taxis to conciliate the Directory.

As the action of the Hanoverian delegation was hardly creditable, it had also no distinct effect on the course of negotiations. Hanover had at first some faint idea of forming a third party—other than the Austrian and Prussian factions—in the Imperial delegation. But the Hanoverian “System” met with no encouragement from Saxony, whose support it was expected to command.³ Consequently, von Reden and his colleagues fell back on a fairly steady policy of co-operation with Prussia and Saxony.⁴ Kept by the Austrian court in ignorance of the result of the negotiations at Campo Formio in October, 1797, it was to Prussia that Hanover turned, while it viewed with strong suspicion the plans and suggestions of the Austrian delegation.⁵ It was the co-operation of Prussia and Hanover in this

¹ George III., in his rescript to the Regency, is several degrees more emphatic on the subject of preserving the Empire in its integrity than the Regency is. See king to Regency April 21, 1797, in *no. 1144* (*Han. Archs.*). The first instructions to von Reden are in *Cal. Br. Des.*, 11, *E. I.*, *nos. 1129 and 1149*.

² See reports from May to July, 1798, in *no. 1159* (*Han. Arch.*). Any biographer of von Dohm should examine the material in this fascicle.

³ Hanover and Saxony were in very general agreement throughout the Congress. For an instance, see Hüffer, *Rastatter Congress*, i, 216, 217.

⁴ Hüffer, *sup. cit.*, pt. ii, 189.

⁵ Hüffer, *Rastatter Congress*, i, 109, notes this hostility to the Emperor.

field that alone would demand at least this brief mention of the Congress of Rastatt.¹

Had the Congress of Rastatt accomplished its intended work, the conclusion of the treaty would have raised interesting questions as to the status of the Neutrality System and the continuance of the Demarcation Army. If Hanover had not succeeded in securing from the French a special acknowledgment of its inclusion in the peace arrangements,² the Electorate might have found itself exposed to French hatred of its sovereign and his English policies, with no other resource than to call on Prussia to occupy. But the outbreak of the Franco-Austrian war put an end to the deliberations at Rastatt, and to the hopes it had raised of a Franco-Imperial peace.

In the situation created by the renewal of hostilities and the formation of the Second Coalition, Count Haugwitz sought, on the one hand, to avoid all entanglements with France which had long been attempting to draw Prussia into bonds closer than those established by the treaties of Basel and of Aug. 5, 1796; on the other, while chary of offending Napoleon, he hoped to maintain friendly relations with his enemies, England, Russia and Austria.³ If a choice had to be made and isolation aban-

¹ It can hardly come within the purview of this monograph to exploit the pros and cons of the cession of Büderichsinsel, the dismantling of Ehrenbreitenstein and the abolition of the Elsfletherzoll. Prof. Marten's legal opinions and drafts of treaties would in themselves make a stout volume.

² This was one of the points in von Reden's instructions. All the essential material for an account of Hanover's part in the Congress at Rastatt is to be found in *Cal. Br. Des.*, 11, E. III., no. 67. Nos. 1128, 1129, 1149, 1150^a and 1161 of the same category contain duplicates and some unimportant additional material.

³ Bailieu, i, 267. Haugwitz expressed himself in similar terms to Deluc in August, 1801.

doned, as seemed to him necessary in July, 1799,¹ it was to the English-Russian camp that Haugwitz would lead the armies of Prussia. But the vigorous policy of the minister did not meet the approval of the young king who in the first important decision of his reign chose the part of inaction, hoping thus to postpone the explosion until a more convenient time.² It was the king now, as it was the king in 1803, who shrank in weakness and indecision from a positive line of action. It was Haugwitz now, as it was Haugwitz always, whose weakness and false loyalty to his sovereign led him to abandon the ideas of public welfare to which he had set his name and made him remain to execute in silence that which he had condemned, but for which, as leading minister, he would be held responsible.³

¹ Bailleu, i, 311 ff. Haugwitz had favoured a connection with England and Russia before this. See his memorial of May 5, 1799, Bailleu, i, 283 ff. and Lombard's opinion of it, p. 289.

² See the king's letter of July 17, 1799, Bailleu, i, 316 ff. and Siéyès despatch written in May, 1799, in Bailleu, i, 500. Woronzow in London says, "Il est presque décidé que le roi de Prusse restera à la fenêtre pour voir ce qui passera dehors." *Das Archiv des Fürsten Woronzow*, viii, 214. (Moscow, 1870-1884.)

Grenville incloses in his despatch from Berlin, April 25, 1799, a copy of a *note verbale* which Baron Finckenstein had handed to Count Dietrichstein, the Austrian ambassador, on April 15. It is a reply to the arguments advanced at a conference of April 7 in which the Prussian representative had met Dietrichstein, Panin (for Russia) and Grenville. It announces the king's determination to adhere to the prevailing system which could on occasion be made offensive. "Le Roi n'hésite pas de placer au nombre de ces chances (1) l'invasion de l'électorat d'Hanovre." Other sufficient reasons for Prussia's taking the field, are the violation by the French of the mouths of the Elbe and Weser, and interrupting English communications with the continent, an attack on Hamburg, the Prussian provinces in Franconia or Saxony. (*English Record Office*.)

³ In the crisis of 1803, when the king failed to approve plans whose

It was the misfortune of Prussia to have, in Frederick William, its Louis XVI., a king who, to a mediocre ability that made counselors necessary, joined a narrowness of spirit and a high sense of his own authority, which did not allow him to tolerate among them men of force and ideas. Thus throughout these crucial years a king with limited views and no inceptive power was supported by men, who, while they had ideas, lacked the higher patriotism and the strength to support them by a refusal to lead where royal weakness pointed the way. It was to Stein and Hardenberg, and not to Haugwitz and Lombard, that the nation and, perforce, the monarch, turned in the times when a strong hand was required at the helm. We touch here, let it be remarked in passing, the great misfortune of Prussian policy in the years between 1795 and 1806. It is that the leading ministers, whether in the light of recent investigation they be thought weak or strong, wise or incapable, did not in their own day possess the confidence of their country or of the rest of Europe. Judged by the light they had, this is the heaviest indictment that can be brought against the advisers of Frederick William III.¹

execution Haugwitz felt to be vital to Prussia's existence, the minister talked some of resigning but concluded "Mon devoir est d'obéir et dès que le roi mon maître ne veut point entendre parler de cette occupation, je renonce à mon projet." F. Martens: *Recueil des Traités conclus par la Russie*, vi, 310.

¹On the lack of ministerial responsibility in this period see a recently published reform proposal of Gentz's in the *Hist. Zeit.*, 89, 239 ff. Ompteda, *Die Ueberwältigung Hannovers durch die Franzosen* (p. 70), points out the disastrous effects of this lack of confidence in 1803.

CHAPTER VII

THE PRUSSIAN OCCUPATION OF HANOVER IN 1801

INTENSIVE study of certain periods, certain institutions, certain men in the field of European history, leads also to an extension that brings within the student's purview the whole continent with its complex of national interests, or whole centuries with their genetic relations to one another. Luther, the Church, Louis XIV., representative government, the French Revolution, Napoleon, are great centres toward which all roads of study, no matter how remote their starting point, seem to lead. In no period is it more difficult to delimit one's field, while yet preserving true proportion, than in the revolutionary and Napoleonic era. The topic to which this chapter is to be confined is the diplomatic preliminaries ending in the occupation of Hanover by the Prussians in April, 1801. Simple and very local in its interest as this seems, we must follow the thread through the web and woof of all Europe's politics in the months preceding Prussia's unwilling abandonment of the neutrality system.

The inconstancy of the Czar of all the Russias, Paul the First, and the "masterly inactivity" of Prussian neutrality, the humiliation of Austria at Marengo and Hohenlinden, left France, left Napoleon at the close of 1800 with but one great foe—England and Pitt.

England still stood out against France. Others might be uncertain as to the reality of the danger to them from the new France and be led by this and by exhaustion to

peace. But England, true to her commercial and colonial instinct and interests, was conscious earlier in the struggle even than France itself, that the contest was one to the bitter end. With the dominance of Napoleon in the consular government, France began to develop those ideas which one finds occasionally in the policy of the Directory.¹ She saw through Napoleon's eyes who her real enemy was, and what the means were that would cripple her. It is after the failure of all efforts to subdue England by crushing her continental allies that suggestions are renewed, in which one sees the ideas of the Continental System clearly foreshadowed. With these plans comes a definite revival, in more aggressive form, of the idea of Hanover as a continental possession of England, which may be so handled as to bring England's monarch to terms.

The not too imposing military strength of Prussia and her North German allies was not sufficient to shut out from the French mind the possibility of violating the neutrality of North Germany. The occasion need only be urgent. In all the years after 1795, or after August, 1796, Prussia could never feel sure that there was not real purpose back of the numerous rumors of French intentions against Hanover and the Hanseatic cities. The region was without doubt of great importance to England for the sake of the grain and naval stores that were shipped from its ports. The Elbe and Weser tapped the great granary of North Germany, and a free highway to the sea along those rivers involved the prosperity of

¹ As early as March 4, 1796, a dispatch from Reinhard, the French envoy in Hamburg, on the closing of the Elbe and the Weser, shows he has the germ idea for a continental system. *Hist. Zeit.*, 1884, 412. See also letter of Siéyès, July 14, 1798, Bailleu, i, 481.

German provinces as distant as Silesia.¹ France knew the importance to herself of the region and its commerce, and considered that it must be far more important to the trade of England.

Here then was the opportunity to live up to the Napoleonic motto of striking the enemy wherever found. The English fleets had shown themselves a wooden wall which the genius of Napoleon could not surmount. Her commerce with the continent and the German states of her reigning house seemed England's only vulnerable points. The most ready victim of its sovereign's English wars, the electorate of Hanover, was protected only by a treaty and the army of an exhausted land and a peace-at-any-price sovereign. It might also be argued that the conclusion of a French peace with the Empire ended the neutrality of Hanover; moreover the geographical location of Hanover, as has been indicated, made it possible for the French, through a hostile occupation, to accomplish the double aim of separating Hanover from England and England from the continent. The two ideas were, from the first, closely associated. To close the Elbe and Weser to English commerce was to hamper materially two lines of egress for supplies to Great Britain. The occupation of Hanover would give a vantage point from which not only these rivers and the Hansa cities, but the whole North of Germany might be shut to English trade. A master stroke of French policy it would be to accomplish all this through Prussia, and thus involve Frederick William III. in Hanoverian affairs in such a way as to range him on the side of England's enemies.²

¹ Silesian merchants appeared in Berlin in 1801 to protest against any action of Prussia's that would result in closing the outlets for their products.

² Häusser, ii, 344, 345, on basis of Lucchesini's despatches. Luc-

Two ways to this end lay open. The offer of Hanover as an indemnity for Prussia's losses beyond the Rhine seemed a bait at which the "landbegierige" Prussian ministry would readily snap, and possibly they could carry the king with them. The co-operation of Russia and the pressure of the Maritime League opened a second unexpected way of forcing the Prussian hand to strike a blow at England's crown. If these had failed, as they once seemed in a fair way to do, there remained an actual or threatened occupation of Hanover by France itself. And to France either alternative seemed equally advantageous. Action by either Prussia or her own generals would result in closing the rivers of North Germany, and Prussian occupation might be expected not only to estrange England, but to arouse the never dormant suspicion of Austria that Prussia would take Hanover for her indemnity.

The idea that Prussia should possess herself of the German dominions of the English throne was not a Napoleonic idea. As an effective idea in European politics it seems, however, to have been of French origin.¹ As soon as there was the hope of separating Prussia from the coalition in 1794-95, there came to the French the ideas of a Prussian alliance and of a Prussian seizure of Hanover, embroiling Prussia so that it would find itself favored by France alone should it retain Hanover. But strange as it may have seemed to the French government,

chesini fathomed Napoleon's plan. See also Napoleon's *Correspondance*, vi, 129. "A Talleyrand: *Demande d'un Rapport sur les Moyens d'engager la Prusse dans la Politique de la France.*"

¹The *Papiers de Barthélemy* (ed. Kaulek), so often cited in chapter two, show how hostile France was to Hanover. Gervinus in Paris in 1795 hears the "alberne Idee" of Hanover for Prussia. Cf. Bailleu, i, 397, 400.

the idea was not accepted by the king of Prussia or his advisers. They were not blind to its advantages, but they were true to higher obligations. There was not a single public utterance of the responsible ministers of the Prussian kings between 1795 and January 1, 1801, that could seriously disturb the repose of the neighboring Electorate.¹ Neither for himself nor for his landless relative, the Prince of Orange, would Frederick William II., or his successor, entertain the idea of seizing or dividing Hanover.² But in successive years the proposition re-appears, and Prussia in the period from the time it took Hanover under its protection by virtue of a treaty with the French, until it actually occupied the Electorate in April, 1801, was never free from the pressure of French intentions against the Electorate.³ Despite the pressure of the French party at Berlin, Haugwitz had maintained himself in power and with him, despite all his shifting and tortuous methods, the neutrality of North Germany seemed in safe hands. When France alone threatened to violate it, he had shown himself ready to take arms in defense of his cherished system. The change of attitude in 1801, when Napoleon made evident his plans against

¹ Nor have I ever found record of any private utterances except that of Hardenberg (see note, below), which could be cited as a basis of distrust. But one feels sure that there must have been talk of this kind in Berlin. Such a supposition alone explains in many instances the suspicious tone of Hanoverian dispatches from Berlin or from the Regency to King George.

² *Hist. Zeit.*, 1884, 412, 413. Conversation between Reinhard and Hardenberg.

³ Report of v. Reden, February 15, 1800, no. 580 (*Hanover*), and of Sandoz-Rollin from Paris in April (Hüffer, i, 321) and May 6, 1796, in Bailleu, i, 67, and hints in Caillard's conversations as to Prussia's position on indemnity 1797-98. Bailleu, i, 470, 472. Also F. Martens, *Recueil par la Russie*, vi, 256.

the Electorate, is to be attributed to the fear aroused by the violent and uncertain Czar whose armies lay along Prussia's most vulnerable side. Thus it was that Napoleon, aroused anew in 1800 and 1801 by the English, found the mad Czar of Russia unexpectedly serviceable in carrying out his ideas.¹

From hatred of France, bitter and extreme, Paul I. had, in violent reaction, become an enthusiastic admirer of Napoleon and an uncompromising foe of his recent ally, England. Early in 1800, there recurred rumors of the revival of the Maritime League of 1783.² Documents published later³ have shown the course of events which enabled Paul to push his plans so that by December 18, he had brought reluctant Denmark and Sweden⁴ and neutral Prussia to sign an agreement at St. Petersburg by which they bound themselves to the maintenance of neutral commerce on the high seas. It was to all appearances a protective measure. England was not men-

¹ V. Reden in his reports for the summer of 1800, *e. g.*, July 1, no. 582 (*Hanover Archives*), mentions how the French and Spanish ministers at Berlin are working for a league on the basis of the ideas of Catherine in 1781. Spain was further aroused by the affair in the harbor of Barcelona and secured Prussia's support in urging Sweden to a protest against the conduct of the English. *Cf.* Martens, *Recueil, Suppl.*, ii, 373 ff. July 22, 1800, v. Reden says the first move for the alliance was made in February, 1800, by Russia at Stockholm. That though this plan comes from St. Petersburg in its argumentation as to English commerce, it is what the French papers have been urging. Von Reden's despatch of January 6, 1801, gives a remarkably clear exposé of Napoleon's interest in the league as a means of striking England in the same way the continental policy did. No. 582 (*Hanover Archives*).

² The reports of von Reden, Hanoverian minister in Berlin and Carysfort, the English ambassador, show that they did not think the league would be formed that year.

³ Martens, *Supplément au Recueil*, etc., vol. ii, 344 ff.

⁴ *Ibid.*, 388. Denmark and Sweden signed on Dec. $\frac{4}{10}$, 1800.

tioned. The whole convention reads as though the cases to be considered were simply foreseen as possible results of some distant war. Yet to any one who knew the position which Englishmen had held on the questions involved, who knew the "*Ungestüm*" and capriciousness of the half insane Czar, who went back of Paul's views to those of the craftier Napoleon whose tool Paul was, it was clear that Prussia, by so readily joining the Maritime League,¹ had taken a decisive step towards entering the arena of European affairs from which it had withdrawn for six years.

There could be no reason to hope that England would abate one jot or tittle from the position she had held in 1781.² To her merchants and statesmen the views she held on the subject of neutral commerce were bound up with her very existence and could only be yielded with it. For any power or powers to make a demand on England to recognize a different definition of contraband, of a blockade, of the rights of enemies' goods in

¹ According to F. Martens, the Russian proposition to renew the Maritime League "was immediately accepted" by Prussia. *Cf. Recueil des Traités, conclus . . . par la Russie*, vi, 286. This readiness to join Russia is to be ascribed, not so much to the enthusiasm for the principles of the armed neutrality, as it is to a larger plan of playing a part between Russia and France and a desire to placate a powerful neighbor whose hostility would be most embarrassing.

² Carysfort reports August 23, 1800, that everybody in Berlin is sure Great Britain will maintain the position she has assumed (after the capture of a Danish vessel). V. Reden reports the king of Prussia as saying, "Wenn die Englischen Minister mit ihren mercantilen Projecten nicht die ganze Welt aufrächten, so ginge noch alles gut." V. Reden adds: "Dieses Wort des Königs welches in der That manches Wahre in sich fasst, und die Halsstarrigkeit mit welcher das englische Ministerium alle seine Pläne von Handelsvergrößerungen mit Gewalt durchsetzen will ohne sich um die ganze übrige Welt zu bekümmern, setzen uns allerdings in die grösste Verlegenheit." *No. 584 (Hanover)*, February 17, 1801.

neutral vessels than those she herself chose to grant, was to the Englishmen of that day equivalent to announcing an alliance with France.¹ The English despatches and instructions to their representatives in foreign courts at this time, produce in the reader a profound impression of the terrible and uncompromising earnestness with which England was fighting at every point the battle for supremacy on the seas and in the world's markets. But the grandeur of a world power's struggle interests us for the present only because it is a vortex drawing into itself the fate of lesser and dependent powers. The unfortunate ruler of England, himself the victim of a mental malady that from time to time eclipsed his mind, could be struck through a blow at his ancestral German possessions.

France had long persisted in viewing Hanover as England's continental possession. The mad Paul was possessed of the idea, and the weak and unwilling Frederick William III. of Prussia was to be made the instrument of revenge on a related house by oppressing a neighboring province whose capital city had cradled his queen. Never was there in these eight years, from 1795 to 1803, a more striking illustration of Hanover's unfortunate position as a *Zankapfel* between Russia, Prussia, England and France; never a better example of what their allegiance to the sovereign of England was likely to cost George III.'s faithful German subjects.

This is not the place to weigh the importance of the commercial interests whose protection might justify Prussia's entering the Maritime League. It is probable that the rather high-handed conduct of the English²

¹ See instructions to Carysfort, August 22, 1800. (*English Record Office*.)

² Favorable settlement of the case mentioned by Martens, *Recueil*

would not have brought Prussia, with her growing carrying trade and lack of a navy, to join a league of maritime powers,¹ if a stronger force had not been pushing her on to this virtual abandonment of her neutral position. The move was made with reluctance.

Throughout the summer of 1800 the Prussian cabinet had been essaying the rôle of mediator between France, Austria, Russia and England. To do this successfully meant to reap belated honors as the peace-maker of Europe, and to save the neutrality system from the rocks ahead. Above all it was necessary to bring England into the comity of nations. Peace between France and the powers, with England left out, would mean the revival by France of her former plans for seizing Hanover and closing the Elbe and Weser to English commerce. This failure to include England in the pacification would mean increased danger for Prussia;² for there was not one iota of conciliation in the actions of the English navy. Neutral vessels, Danish, Swedish³ and Russian, were

Suppl., ii, 381, should not obscure the numerous vexatious cases which Jacobi and Balan, Prussia's ambassador and attaché, were constantly bringing to the notice of the British government. The real reason for modifying the term "high-handed" as regards Prussia is the exemption of her vessels from the embargo laid by the English government on vessels of the members of the armed neutrality, January 14, 1801.

¹ The despatches between Carysfort in Berlin and Hawkesbury in London, if in any degree acceptable testimony on the question of Prussia's true interest, show that her hope of commercial success as a neutral carrier with no navy lay in not offending Great Britain. See the same view in v. Lenthe's *Darstellung in Zeit. des historischen Vereins für Niedersachsen*, 1856, 150-151.

² V. Reden's despatches of this summer follow these efforts and point out the danger to Hanover from England's persistent hostility to France. No. 580 (*Hanover Archives*).

³ Mention is made of English seizures of Swedish and Danish vessels in 1799 by Hudelist, Austrian chargé, in Bailieu, i, 559.

seized or searched in a most irritating manner.¹ The cabinet at St. James, unmoved by the moderate councils of such men as Carysfort, who saw things from the standpoint of securing friendly assistance from minor continental powers, rigidly held to the strictest English insular view of neutral rights.² Denmark and Sweden were driven into the arms of Russia. Prussia, dominated by the fear of an enemy in the rear,³ felt itself obliged⁴ to yield to the Czar's plans.⁵

¹ Cf. Martens, *Recueil Suppl.*, ii, 443, 444.

² Cf. e. g., Carysfort's despatch of Aug. 26, 1800, when he is even hopeful from the utterances of Krüdener, Russia's minister in Berlin, that Russia may be brought into line against France. Also his despatch of Nov. 16, 1800, urging conciliatory action (*English Record Office*).

³ King Frederick William III. said, "Ich muss meinen Rücken frei haben." Fear of the French and rivalry with Austria have received due, even undue, attention from writers on this period of Prussian policy. It is well to keep in mind that the experience of Frederick the Great, the incidents of the partitions of Poland, if nothing else, had taught Prussia that she could do nothing in Europe with a free hand unless she were sure of Russia at her rear.

⁴ I say obliged, although there was a party who saw in union with Russia the possibility of a more independent attitude toward France and Austria. Möllendorff was a warm advocate of the league with Russia for this purpose. See von Ompteda's despatch from Berlin, June 17, 1800. No. 582 (*Hanover*). The utterances of another group led v. Reden, the Hanoverian minister to Berlin, to view the armed neutrality as a "Fussschemel" to Prussia's plans of territorial increase and the attainment of real dominance in North Germany. Cf. Despatch of November 29, 1800. No. 582 (*Hanover*).

⁵ V. Reden's despatch of June 17, 1800 (no. 582), shows that he then expected that Saxony, the Porte, and, under certain circumstances, Hanover, were to be asked to join the Maritime League. Nov. 22, 1800, v. Reden learns that Hanover is to be omitted. The ministry regards the League as "eine präcipitante Idee," Nov. 30, 1800, in no. 582. Sept. 3, 1800, Carysfort, the English minister in Berlin, writes that Haugwitz has again denied that Prussia was having anything to do with the Northern League, "and so far from wishing to reduce or to limit the naval power of Great Britain, rejoiced in its increase, consider-

Nothing could be stronger and seemingly more sincere than the numerous assurances Haugwitz had given of Prussia's real interest in seeing England maintain, undiminished, her naval supremacy. It seems, then, a step as inexplicable as it was sudden, to join a maritime league with the Czar of Russia at its head. It does not appear to have been done in a spirit of hostility towards Great Britain. Prussia hoped to avoid committing any overt acts in the enforcement of the convention, and to make England see the distinction between the now hostile league which had been formed because its members had common views on certain points of international law, and the active enmity of Russia on account of Malta. Prussia hoped, as has been suggested, to get between Russia and France, and as mediator to play a leading rôle in Paris. Finally, if worst came to worst, and a choice had to be made between two evils,¹ it seemed advisable for Prussia to favor Russia, at least nominally; for there seemed more hope of dealing reasonably with the sane ministers of George the Third, though Prussia was an ally of Russia, than there did of dealing with the unstable ruler of all the Russias, while disapproving his scheme of armed neutrality.²

ing it as the great bulwark of the common liberty of Europe. All accounts have concurred to convince me (Carysfort) that the idea of the Northern League has been always discountenanced by Prussia." May 31, 1800, Beurnonville reports to Talleyrand that in a three-hour interview, filled out by the "sterile fecundity" of Haugwitz, the latter had mentioned the possibility of a Northern League that would limit English commerce. Bailleu, i, 524-525.

¹ England knew this, and had no objection to Prussia's adhesion to the principles of the Maritime League if only no hostile action was taken. Instructions to Carysfort, Jan. 16, 1801. (*English Record Office*.)

² Sept. 14, 1800, Carysfort sent by special messenger the contents of

But once embarked on a course laid down by Russia and France, Prussia had before it, if it would at the same time retain a remnant of the position created for it by its neutrality system, the duty of doing unpleasant things because Napoleon or Paul wanted them done, and it would have been much more unpleasant for Prussia to let them be the executioners of their own plans.¹

important despatches just received by Baron Krüdener from the Czar. Paul had two armies of 80,000 each on the march, "destined to enforce the conclusion of peace (on Austria?) consistent with the general interests of Europe and the known principles of His Imperial Majesty, and (Krüdener was) to make the strongest instances to the Court of Berlin to put an army in readiness immediately for the same purposes." Krüdener did his errand with energy, even menacing, but to no effect. Prussia could not be moved (substance of Russia's reply to Prussia in Carysfort's despatch of Oct. 7); Haugwitz told Carysfort (Sept. 27, 1800) "that Prussia would not concern herself directly with anything outside the Demarcation Line." No appeals to her cupidity would move her, though it had been tried on a recent occasion (seizure of Danish ships). "She had been told if she would take part against England she might seize Hanover, and France would guarantee to her the possession." Up to Sept. 21, Carysfort had no definite knowledge as to the Maritime League, and was assuring Krüdener of England's desire to renew relations with Russia. (Despatch of Sept. 16.) In the first part of the despatch which tells that St. Petersburg had joined Denmark and Sweden, Carysfort talks of England's subsidizing the army Paul had called out. On Nov. 8 he felt sure there was no league forming against Great Britain, despite the efforts of France. (*Cf.* despatch of Nov. 11.) Haugwitz at this time (*cf.* Carysfort's despatch of Nov. 13) repeats his assurances of extreme friendliness to England, and broaches the subject of a union of Prussia, Austria and England, inviting Carysfort to bring about a reconciliation between Austria and Prussia. (*Eng. Rec. Off.*)

¹ A conversation with Mr. Lombard has just been "reported to me from a quarter upon which I can perfectly rely, and by which it clearly appears that the Prussian government is under the greatest distress and embarrassment at not seeing means of escaping the consequences of the measures in which it has been so rashly engaged. Its intention is to keep aloof till the solicitation of its confederates, which it cannot resist, and which will certainly be strongly urged, obliges it to participate." Despatch of Lord Carysfort, Berlin, Feb. 1, 1801. (*English Record Office.*)

The situation was critical, but it was of the kind that the statesmanship of Berlin in this period as represented in Count Haugwitz was peculiarly able to meet. A great crisis, a bold move, war—these were words that might figure in the vocabulary of a Stein, a Blücher, a Scharnhorst, but the sovereign of Prussia and the advisers next the royal person, Haugwitz, Lombard, Beyme, Köckeritz, Zastrow—how they have shrunk into oblivion behind the stalwarts of 1813—were a combination that shunned a policy of blood and iron, and suited themselves to the tortuous course dictated by circumstances. The best thought of the Haugwitzian diplomacy is embodied in neutrality conceived as a system; the best example of the Haugwitzian method in diplomacy is to be found in the period between December, 1800, and September, 1801. There was a softness in the tread of his diplomacy that enabled him to walk unscathed between the half slumbering war giants of that time. Russia was seemingly placated by Prussia's approval of Paul's revival of the principles of 1781. On the other hand, England was being made to feel that though Prussia approved the principles in abstract, no overt act of Prussia's would make them dangerous to England's practice. To such a position England had not the slightest objection. With its own isolation before it, the English government was willing to spare Prussia, that, when the storm was over, it might be more easily drawn to the support of England on the continent.¹

¹ In confirmation of this see instructions to Carysfort from London, January 16, 1801. Also Carysfort's despatch of January 22. "The general idea which I should think myself justified to form if perfect reliance was to be placed upon the most prominent parts of Count Haugwitz's conversation, would be not only that this court but Denmark and Sweden also really intended to draw themselves out of the scheme of armed neutrality. . . . He (Haugwitz) said that it is the treaty of 1780 which he

Indications were not long wanting that the Czar was not to be content with abstract approvals of his mother's views of international law. These would not bring England to terms on the question of Malta. Reprisals of some kind must be made, and as the ocean was England's, naval impotence directed the Czar's attention to other ways in which to punish his whilom ally. First came an inquiry as to the possibility of closing the mouths of the Elbe and the Weser to English commerce if it was deemed advisable by the Maritime League.¹

meant to act upon. Have patience and you will be convinced that nothing is intended against you." (*English Record Office*.) Another proof of this English consideration is that the English seizure of Heligoland, Prussia is assured, was not made until a map had been consulted and the English assured themselves it was outside the Demarcation Line. (Instructions to Carysfort, January 24, 1801.) This is noteworthy because English ambassadors at Berlin had had instructions never by any act or phrase to give countenance or recognition to the Demarcation Line. And again see English note explaining to Prussia reasons why she is omitted from the embargo laid on Swedish, Danish and Russian vessels. On January 5, Carysfort surmises Haugwitz's reply to England's inquiries about the League. In concluding the interview, Haugwitz, after friendly assurances, had added that he could speak only for Prussia but believed England "was misled in attributing hostile views to Sweden and Denmark."

¹ Despatch of Lusi (Prussian ambassador at St. Petersburg), January 1830, 1801. "Le Comte de Rostopschin a reçu ordre de L'Empereur son Maître de me dire, que sa Majesté Impériale avoit lieu d'espérer que, en cas de mesures hostiles du côté de l'Angleterre par rapport à la neutralité armée Elle voudra bien lui fermer les ports de l'Elbe et du Weser." As early as February, 1800, Simon Woronzow, the Russian minister in London, had received instructions from the Czar to bring England to time on the question of maritime rights by threats (1) that Russia would make a commercial treaty with France and not with England, (2) that a persistent refusal would result in the invasion of the Electorate of Hanover and the closing of the mouths of the Elbe and Weser. (Instructions are given in *Woronzow Archives*, vol. xi, p. 392, Harvard Library.) Woronzow, judging from his reply of February 25, seems to have ignored his instructions. He points out that the Czar must be in ignorance of commercial history between 1766 and 1793 to think to intimidate Eng-

Now, Russia, seated at Hamburg or Bremen, or with an army in Oldenburg, was a spectre as disquieting to Prussia as a force in the same region wearing the French uniform would have been. The inquiry was a clear warning that Prussia must prepare to act with apparent hostility against Great Britain. Never certain of what the Czar might choose to do, Prussia's anxiety to keep her own borders intact, was increased by her desire at this juncture to win over Paul to her indemnity project which had just been proposed for the Czar's approval.¹ It was only with Russia's coöperation at Paris that they could hope to put through their ambitious plans for territorial increase.

Procrastination in the face of Russia's urgency became more and more difficult. The embarrassment of the cabinet at Berlin was evident to all observers.² The pressure from France, Russia, Sweden and Denmark, was pushing the reluctant Frederick William III. on to measures that even his best assurances could hardly make explicable to England or his fellow states behind

land by threatening Hanover. He then expands on the absoluteness of separation between the two in words scarcely less vigorous than those quoted in *Appendix B. to Chapter I.*

¹ Russia's ministry to Krüdener, March 2, 1801. They ask for Bamberg, Wurzburg, the city of Nuremberg, etc. "Des raisons prépondérantes ont décidés le Roi à chercher la majeure partie de ses indemnités dans le cercle de Franconie." There they can best oppose Austria if thus strengthened—a suggestion cleverly supposed to appeal to the Czar, then in much disgust at Austria. The ministry thus ask for Hildesheim, Osnabrück and Eichsfeldt, which will allow Prussia to renew some day her plans of defending the neutrality of North Germany.

² Carysfort, February 7, 1801. "The object of this court at this moment is Procrastination, for what end cannot be easily ascertained. I fear they only wait the Determination of Russia whose Armies are in force on the Frontier and whose support is what they chiefly rely on to accomplish their ambitious Designs in Germany."

the Demarcation Line. The measure which it was understood Paul favored, was the occupation of Hanover, and Berlin was filled with rumors of the Electorate's partition or exchange.¹

The Maritime League and Paul's desire to make it an instrument to punish England for refusing to yield Malta, were working to the advantage of no one more than Napoleon. Aroused anew by the English embargo against the Northern powers,² and the English action in Egypt, Napoleon assumed the right of interpreting to Prussia the duties which her relations to Russia and France required of her.³ Her hostile attitude to England, said Napoleonic logic, involved Prussia, as a member of the Maritime League, in the closing of the ports of the Elbe and Weser, and occupying Hanover or letting the French do it. With Russia pushing Prussia the way France had long pulled, the Neutrality System must either be abandoned or defended with arms.⁴ The decision of Prussia could not longer be delayed. The reluctant King Frederick William III., realizing the danger to his position now that Russia had been drawn into the French system,⁵ did violence to all his principles and plans by preparing to occupy the Electorate.⁶

¹ Lord Carysfort, February 21, 1801. (*Eng. Rec. Off.*)

² Bailieu, ii, 21, 22.

³ In October of 1800, Napoleon had desired to use Prussian vessels to transport supplies from Antwerp to Bordeaux. He first inquired if the king of Prussia was prepared to make his flag respected, by seizing Hanover, as Prussia had no fleet. Bailieu, ii, 9-10.

⁴ In the fall of 1800, before she was entangled with Russia, Prussia was ready to meet France with arms in her hand if the French violated the Demarcation Line. Instructions to Lucchesini, October 14-16, 1800. Bailieu, ii, 7.

⁵ On February 27, 1801, Napoleon proposed to Paul a joint Franco-Russian occupation of Hanover. *Corr  spondance*, vii, 63.

⁶ First notice in letter to Lucchesini, February 3, 1801. (*Berlin*

The Prussian state has seldom, if ever, made a clearer confession of weakness than Haugwitz's letter to the Duke of Brunswick February 8, 1801,¹ announcing that fear of Russia and France called for the sacrifice of Hanover. The self-abasement of it all lay in Prussia's abandonment in the eyes of Europe, of a principle which she had long proclaimed and was even then admitting, and this before the shock of arms had robbed her of the glamour cast about her by the military fame of Frederick the Great. For at the very time that she submits to the claim of Russia and France that England must be punished through Hanover, she was reiterating the view she had long held, that they were separate in interests and policy.² The resolution communicated to Lucchesini in Paris and to the Duke of Brunswick was,³ as the delay in executing it showed, contingent upon the continuation of the pressure which Russia and France

Archives.) He is to keep it quiet, saying only that the king had joined the Maritime League, and will take measures that it necessitates. The cost was even greater. The realization of any plans Prussia may have entertained of drawing North Germany into a hegemony under her leadership, and such plans were in the minds of some of the Berlin cabinet, would be delayed or rendered impossible by the results of the seizure of a neighboring and friendly province. Among other evidences of far-reaching plans may be cited the instructions to Lucchesini, Oct. 14-16, 1800. Bailleu, ii, 8. Haugwitz's and the Duke of Brunswick's plans to divide Germany have already been mentioned.

¹ Bailleu, ii, 25.

² I do not mean here to cross the line between presenting Prussia's action from the proper point of view and weighing the advisability of Haugwitz yielding. With no allies, an untrustworthy army, and a foe at rear and front threatening to occupy if Prussia did not, one can understand why the unaggressive ministry would readily find in the sanctity of their obligation to the Maritime League an excuse for an act which they acknowledge to be the result of political necessity. Bailleu, ii, 25.

³ Special attention is called to the date of the communication to Lucchesini of Prussia's intention to occupy Hanover, *i. e.*, Feb. 3, 1801.

were exerting when the decision was made. Procrastination was still the refuge of the hard driven Prussian ministry. England meanwhile was giving them every reasonable excuse she could for delaying action.¹ This, it must be added, was not primarily on account of the Electorate in which her sovereign was interested, but rather that the English fleet under Parker and Nelson might gain the Sound and overpower the Danes before any of their allies in the Maritime League could come to their rescue.² A storm so suddenly aroused might scatter as suddenly; Paul was a man of moods, but Prussia in waiting for a shifting of the wind from this quarter was running close to the dangers of the French Scylla.

Reasonable excuse for delay could no longer be opposed to the interpretation Napoleon had put on Prussia's allegiance to maritime principles *before* she had entered a league for their maintenance.³ The ratification of peace with the Empire⁴ was going to furnish him an excuse for regarding the neutrality of North Germany as non-existent. The French-English struggle still continued, and Napoleon told Lucchesini "that it will be open to the king of Prussia or myself to occupy the electorate of Hanover."⁵ And when Prussia neither moved to support Denmark nor to occupy the Electorate, his utterances became more threatening.⁶

¹ See instructions to Carysfort, January 16, 1801. (*English Record Office*.)

² See note below.

³ His utterance of Oct., 1800, already referred to, is in Bailieu, ii, 9-10.

⁴ At Lunéville, Feb. 9, 1801.

⁵ March 10, 1801, to Lucchesini. Cf. Bailieu, ii, 31.

⁶ March 18, 1801, Lucchesini reports that Napoleon has said to Kalytschev (Russian representative), "Eh bien, les Prussiens disent toujours de marcher et ne bougent point; s'ils ne se décident pas promptement

The young sovereign in Berlin, peace-loving, high-minded, neutral by nature and fitted to rule in times of peace over some small state with paternalistic and reactionary tendencies, had, by the cruelty of fate, been thrown into Europe in the midst of a great revolution. A similar caprice of fortune had placed in his hands the sceptre of a state lying in the very heart of the old Europe now in its death throes. Everywhere the call was for action, decision, boldness, breadth of view, firmness of purpose. Between struggling giants there was no place to kneel and supplicate for peace. The power that would watch the struggle at its ease must rest on a drawn sword. Frederick William III. was unequal to the situation created for him by a complication such as that he now faced. Military and financial weakness¹ made resistance to both Russia and France impossible. Geographical reasons forbade Prussia passively allowing either power to march into the heart of her domains in order to occupy the German lands of the king of England. Honor, consistency in policy, and the history of the past six years called on Prussia to deny absolutely, by force of arms if necessary, the claim that the peaceful electorate of Hanover could be made to suffer vicariously for the contentions of Great Britain. Since the treaty of Basel, Prussia had been attempting to de-

et qu'ils abandonnent le Danemark à ses propres moyens rien ne saurait me détourner de m'emparer de l'électorat de Hanovre." Bailleu, ii, 31, footnote 2.

¹ Although the peace had brought many material advantages to Prussia (cf. Philippson, *Gesch. d. Preuss. Staatswesen, etc.*, ii, 164, and Bailleu, ii, 558), the same lack of a resourceful and aggressive minister of finance had left the Prussian finances disorganized. See Haugwitz's expression of regret in Jan., 1799. Bailleu, i, 267. The article on Struensee in the *Allgemeine Deutsche Biographie*, throws light on that minister's attitude towards financial reforms.

fend the neutrality of North Germany, and the faithful adhesion of Hanover to Prussia's leadership had alone made possible the success of that policy. Too weak to resist the pressure from east and west, it remained to be seen whether, to save the neutrality of North Germany for the time being, Prussia would consent to disavow the fundamental tenet of neutrality as a system¹ by occupying Hanover in order to punish England.

In the midst of all the difficulties of the position which the extraordinary combination of circumstances created, King Frederick William III. was willing to grasp at any means which, by reconciling Russia and England, would relieve him from danger on his most vulnerable side. Breaking over the boundaries of diplomatic usage, he used first Captain von der Decken, and then regularly Colonel Köckeritz as channels by which to convey to Lord Carysfort and the English government the difficulties of the position in which his attempt to oppose both Russia and France placed him. If only he might effect a reconciliation between England and the disgruntled head of the Order of St. John, he could see light breaking ahead.²

¹ Ranke, in speaking of Prussia's attitude in 1801 concerning Hanover's separation from England, says she "führte eine andere Sprache . . . und wagte es nicht, die vorige wirklich in der Natur der Sache und den älteren Vorgängen gegründete wieder anzustimmen." Ranke, *Hardenberg*, ii, 14, footnote.

² March 15, 1801, Carysfort, after announcing that the occupation of the Electorate is inevitable, adds, "the King (Frederick Wm. III.) thinks at present if he could be backed by Russia, he would yet dare to hold up his head against France and look for support to England. But if the Emperor was to turn about and be again our friend I much doubt whether Prussia would venture to oppose the will of France. The King's natural timidity is increased by that of all his generals without exception, by distrust (well grounded) of the affections of the army, and by suspicions, most just, of the abilities and intentions of his Counsellors." (*English Record Office*.)

Whatever relief the wavering Prussian monarch may have felt when he learned that secret negotiations were already on foot between London and St. Petersburg, his respite was short.¹ On March 10, a hurrying messenger arrived in Berlin, bearing despatches from his Prussian Majesty's minister in St. Petersburg. For once Haugwitz did not complain that the inefficient Lusi² had made his report valueless by omitting matters of importance.

Lusi's note is dated St. Petersburg, Feb. 12/26 (24?), and runs as follows:³

“J'ai l'honneur d'envoyer cy-joint a Votre Majesté la copie de deux lettres⁴ qui m'ont été adressées par le Comte de Rostopsin dont la dernière roulant sur des ouvertures très importantes étoit écrite de sa propre main!

Copie :

Monsieur le Comte,

Au moment de notre Séparation j'ai eu l'honneur de recevoir un billet autographe de l'Empéreur, dont je vous joins ici la copie.

‘Proposez en mon nom par le Cte Lusÿ et Krüdener au Roi de Prusse l'occupation de l'Electorat d'Hannovre comme une mesure qui pourra faire finir plutôt les vilénies du Cabinet de Londres’.⁴

¹ Cf. a long and very important letter of Carysfort, telling his communication to the king of the semi-official utterances that the Mecklenburg counsellor, Lützow, has been authorized to make on Carysfort's (*i. e.*, England's) behalf at St. Petersburg. It is dated March 4, 1801, and encloses important documents. (*English Record Office.*)

² Lusi's despatches from St. Petersburg in this period are certainly barren enough to deserve Haugwitz's frequent reprimands. See condemnation of Lusi in Haugwitz's letter to King Frederick William III., August 7, 1801. *Rep. XI, Russland, 149 b.*, p. 193 (*Berlin Archives*).

³ *Rep. XI, Russland, 149 a, Vol. I* (*Berlin Archives*).

⁴ The second letter is a copy of the ukase of Feb. 11/23, forbidding exportation to Prussia.

J'ai l'honneur d'être avec une considération très distinguée, etc.

Comte de Rostopsin."¹

Having reached this point in the narrative of events as they are occurring on the larger stage, we may well turn for a moment to the interested victim of all this discussion.

Thus far this account of the occupation of Hanover seems a case of Hamlet with Hamlet left out. England, Prussia, Russia, Sweden and Denmark—what was Hanover itself doing? Where could it hope to be effective? It had no representative in Paris nor in St. Petersburg. Denmark was its one well-hated, non-German rival. Its small German neighbors were awed into timorous silence by the very greatness of the powers involved and by the fear for their existence that the question of indemnity had raised. Hanover, thrown to the wolves, might let them save their own territorial entities.² London and Ber-

¹ Three days later Le Coq was despatched to St. Petersburg on a special mission to arrange Prussia's indemnity and the military measures which the Maritime League might necessitate.

² When the occupation of Hanover came, the minor states raised no open protest, though alarmed by it. Saxony was sailing in Prussia's wake during these years as closely as was Hanover (see despatches by Sir Hugh Eliot, English envoy to Dresden, in *Pub. Record Office*.) The despatch of May 11, 1801, is particularly good. Helbig denounced the occupation to Count Loss as "cette fâcheuse et terrible expédition," but no action was taken. In Brunswick, the head of the state, Duke Charles William Ferdinand, was convinced of the French danger and had been urging Prussia to occupy. The Dukes of Holstein and of Mecklenburg-Schwerin, then in St. Petersburg, took Hanover's part in the discussions there. Hesse-Cassel was planning to acquire an electoral hat and if it came as the result of Hanover's absorption by Prussia, the Landgrave, whom the ministry at Hanover had denounced as "landgierig," would hardly raise a strong protest. The Duke of Strelitz, father of Queen Louise, and uncle of Duke Adolphus of Cambridge, who looked on Hanover as his second home, came to Berlin (March 21) and

lin' seemed the only places where Hanover might speak for itself.

All through the summer of 1800, von Reden in Berlin watched anxiously the ebb and flow of the Prussian-Russian negotiations on the matter of neutral commerce.² The fear that Prussia would use measures necessitated by such a league to further her territorial aims,³ was more than counterbalanced by the faith that Prussia, whatever the cause of the complications, would return to its neutrality system when the storm was over. But even before Haugwitz had told the Duke of Brunswick (Feb. 8, 1801) that Prussia was preparing to occupy the Electorate, the ministry at Hanover saw the coming action, and saw in it only danger.⁴ Believing from Krüdener's

there strongly protested to both king and queen against the action Prussia contemplated. His words simply increased the perplexity of the hard driven Prussian monarch. (Helbig's despatch of March 23, 1801, *Dresden Archives*.)

¹ V. Lenthe, the Hanoverian minister next to the royal person in London, says in his defense, "Wir hätten keinen eigentlichen Feind (in the period after Basel) aber durchaus keinen Freund auf den wir rechnen konnten und unsere ganze Politik konnte nur die sein, uns an die eine Macht in deren Händen wir sowohl wegen ihrer überwiegenden Stärke als wegen unsrer Lage ohnedem waren so gut wie möglich anzuschliessen und es nun darauf ankommen zu lassen ob deren Politik für oder wider uns entscheiden würde." *Zeitschrift des historischen Vereins für Niedersachsen*, 1856, 149. This sentence represents fairly well the viewpoint of this dissertation.

² Cf. von Reden's reports in *Cal. Br. Arch. Des. 24, Brandenburg-Preussen*, no. 582 (*Han. Arch.*).

³ V. Reden's despatches, Nov. 22 and 29, 1800.

⁴ The Hanoverian government was conscious of the danger of a European pacification which left England out. A phrase in the Prussian note to England of February 12, could well be considered by the thoughtful Hanoverian as an indication of the fate to come. Haugwitz's note, after announcing that the king of Prussia is one of the members of the Maritime League, says, "et en cette qualité elle est obligée non seulement de prendre une part directe à tous les événemens qui intéressent la

words and Russia's previous policy that there was no danger of the Czar confusing King and Kurfürst, and not aware that France had resumed its hostile position with more than usual vigor, they turned on Haugwitz in a note of vigorous protest—a note that was at the same time a strong appeal to the best instincts of the Prussian king and ministry. So seldom in this period did the Hanoverian Regency rise to take the initiative, that the note of February 12, 1801, made all the deeper impression on the Berlin leaders.¹ As the ally of Prussia, Hanover had deserted the policy followed by the kingdom of its reigning house, and had thus made possible the successful maintenance of the Prussian neutrality system to which Hanover had further contributed men and money. The Regency and King George, with such a record to point to, could earnestly appeal against an action that seemed only to result in Hanover's suffering vicariously for England's sins. Passing from things more positive, the Electorate of Hanover agreed in full with the king of Prussia as to the value of the neutrality system, and of the uninterrupted commerce of the Elbe and Weser. Its elector had not the slightest objection to entering with Prussia and other interested parties—even Denmark—into any arrangement for maintaining

cause des neutres, mais aussi de la soutenir en vertu de ses engagements, par telle mesures efficaces que l'urgence des cas pourra exiger. Il doit à des stipulations, qui n'eurent rien d'hostile, que la sureté de ses sujets lui dicta, tous les moyens que la providence a mis en son pouvoir, . . . que le roi, en donnant ses regrets à des événemens qu'il n'eut jamais provoqués, remplira saintement les obligations que les traités lui prescrivent." Martens, *Recueil*, 2nd edition, vii, 218-219.

¹ According to v. Reden's account it had created a sensation in Berlin and greatly embarrassed the king. (Despatches of February, 1801, in *no. 584.*) This is rather borne out by the interest Saxony and England took in seeing what answer Haugwitz would make.

neutrality and keeping open these important rivers.¹ The note and the proposition it contains are by all odds the cleverest diplomatic move the Hanoverian government made in the period we are studying. The situation of the Prussian government was beyond peradventure made much more difficult. Much of the ground upon which it had based its talk about occupying the Electorate was removed by the offers Hanover made in order to show its good faith in observing and defending its neutrality. Officially no notice whatever was taken of the note,² Prussia assuming that Hanover was not a party to the negotiations, and that until England replied to the Prussian note of the same date, or yielded the contention of the Maritime League, serious notice could not be taken of the communications from the Regency. Privately, Haugwitz assured von Reden that the French would never consent to Hanover's joining the League. France would not consider that this was the sort of separation from England which Napoleon demanded. Russia, Haugwitz told von Reden, was not to be feared, but France had already shown itself Hanover's most dangerous enemy. Recently the French had three times proposed the occupation of Hanover, "puisque'il falloit chercher son ennemi partout où on pourroit l'atteindre."³

¹ Cf. copy of note in *Hann. Dcs.*, 92, *XLI*, No. 67. (*Hanover Archives.*)

² Von Lenthe's defense in *Zeitschrift des hist. Vereins für Niedersachsen*, 1856, 152. Von Lenthe there brings the Berlin note into connection with a plan he had of uniting the North for its own defense against the French. He breached the subject to Bernstorff, the Danish minister, who immediately disapproved it (for fear of Russia?). The royal rescript authorizing the note is dated January 27, 1801. V. Lenthe (as above).

³ Von Lenthe, *sup. cit.*, p. 153. Cf. Lord Carysfort's despatch of Feb. 13, 1801, for Haugwitz's conversation with von Reden, when the latter handed in the note of Feb. 12.

If England persisted in its rigid views of its maritime rights, not only Hanover, but Prussia itself, would be drawn helpless into the maelstrom. There was but one voice in Berlin when the subject of Hanover was discussed—if it came to a break with England, the Prussians must occupy the Electorate.¹ There was little comfort in the assurances of the English ambassador that the Prussian seizure of Hanover would only prolong the wars. The history of the last seventy-five years contradicted Carysfort's opinion that the English people would never consent to their sovereign being deprived in this way of his German states.² The Hanoverians were soon to know what they might hope from England. On February 19, the Regency, feeling that it had done all that it could in Berlin, wrote the minister in London, von Lenthe, that all now depended on the help he might obtain from Great Britain.³

¹ Von Reden, Feb. 10 and 17, *Des. 24, No. 584*. Cf. note (—) on king's despair over England's obstinacy.

² V. Reden, Feb. 24, in *no. 584*. (*Hanover.*)

³ V. Lenthe in *Zeitschrift, etc., sup. cit.*, p. 153. One should notice here two other subjects considered by the ministry in Hanover in March, 1801. First, the subject of indemnity, and the situation in which Hanover was placed by the conclusion of the treaty of Lunéville, which Hanover was foremost in approving for fear delay would give France a chance to misinterpret the Hanoverian attitude, led to the proposal that Hanover should have an agent in Paris, and the Regency transmitted to Napoleon through Beurnonville in Berlin and Bacher, French agent in Frankfort, the most friendly assurances of a desire for a good understanding with France. (Cf. *Cal. Br. Arch. Des. II, E. I, No. 1182 and 1183.*) Reports to King George, *Cal. Br. Des. 24. Brand.-Pr., No. 592*, March 12. The second is their renewal of more intimate relations with Austria. They quite agree with the Austrian view that some power in Lower Saxony should be raised to counterbalance the Prussian influence, and plainly indicate that they would like to try their hand as a "*Gegengewicht*," if only a generous indemnity is given them. (Cf. *no. 1182, sup. cit.*, ministry to king in March, 1801.)

The English attitude toward Hanover during the last few years gave little reason to hope that any concession would be made for the sake of the Electorate. Always jealous of the Hanoverian connection, the English cabinet and public, even King George himself, had never quite justified the readiness with which Hanover had sought the protection of the Demarcation Line. Von Lenthe was not a man with decision and ability enough to modify this generally hostile view or hold the king from approving the English measures against the allies.¹ Signing the embargo on Swedish and Danish vessels, as von Lenthe told him, was equal to signing a warrant for the invasion of the Electorate. But no English minister would hearken to a consideration of Hanover's interests in the matter.²

The royal family was much interested in the fate of the Electorate, but the king, who alone was in a position to influence its fate, could only adhere to the principles in

¹ Jacobi-Kloest in his despatches to Berlin seems to consider the Hanoverian attaché, Best, as an abler man than von Lenthe and more in favor with King George, *e. g.*, February 26, 1801. (*Berlin Archives.*)

² It was rumored that Pitt and the Duke of York were in sharp disagreement, Pitt having threatened to resign if any act against the allies was modified on account of Hanover. Count Loss to Helbig in Berlin, February 23 (?), 1801. (*Saxon Archives.*) V. Lenthe says: ". . . , so konnte ich auch hier nichts ausrichten weil ich kein andres Mittel (other than union proposed to Denmark, etc.,) vorzuschlagen hatte: denn das eben eingetretene Ministerium blieb ganz auf dem Wege den seine Vorgänger betreten hatten, die Rüstungen wurden mit gedoppeltem Eifer getrieben und es wurde mir bestimmt gesagt, dass derjenige englische Minister den Kopf verlieren würde der die in der Behandlung der neutralen Seemächte von Grossbritannien allezeit behaupteten Grundsätze aufgeben wollte. Auch hatte der König selbst von jeher eben so gegen mich gesprochen und würde mich also nicht unterstützt, wenn er auch wohl gewesen wäre. Er war aber krank und ich konnte keine Befehle von ihm einholen." V. Lenthe in *Zeitschrift des hist. Vereins*, etc., 1856, 154.

which he had been reared, and be true to the interests of his English kingdom, though it cost him his patrimony.¹ The Prince of Wales was emphatic in opinion, but chary in action, in view of the arrangements for a regency then under discussion;² the Duke of York had, it was thought, opposed Pitt in the matter;³ the Duke of Cumberland, the fourth son, spoke out the royal family's attachment to their ancestral home. It remained for Duke Adolphus of Cambridge, frank and engaging, to do for himself and his father on the Electorate's behalf a service that English policy could not disapprove.⁴

On February 25, the young Duke who had been with the Demarcation Army, accompanied by his adjutant, the able and active young Captain von der Decken, set out for Berlin to try what might be accomplished there

¹ See note below. It was at this crisis that the weakened and overburdened mind of the king gave way to one of his occasional spells of insanity.

² Cf. Jacobi-Kloest's despatches of March 13 and 17, 1801. (*Berlin Archives*.) The prince in the latter despatch has made it plain that England fears Napoleon will win Russia with his plans in the Orient and Prussia by the offer of Hanover.

³ See preceding page, Note 2. An editorial in the *London Times* for February 2 says: "We have reason to think the dissensions in His Majesty's Cabinet regard principally the part which this country and its sovereign who unites with that capacity the executive sovereignty of the Electorate of Hanover, is or ought to act, with respect to the king of Prussia, as guardian and chief of German neutrality on the one hand, and as party to the neutrality of the Baltic on the other." Pitt resigned Feb. 5, but did not hand over the seals till March 14 on account of the king's illness. King George had refused to approve his plan for the Catholic emancipation. See George III. in *Dict. of National Biography*, and the article by von Noorden, "*Rücktritt des Ministeriums Pitt 1801*," in the *Hist. Zeit.*, ix, 343.

⁴ Helbig, March 5 (*Dresden Archives*). "Le Prince Adolphe d'Angleterre . . . c'est le moins beau, mais le meilleur de ses frères et très aimable."

on Hanover's behalf. It was a personal mission, whose hope of success must lie in the influence his young relative could bring to bear on King Frederick William III., seconded as it would be by Captain Decken's unofficial conferences and representations to both king and ministry. The story of their mission is an interesting one, and not without importance in some of its bearings on the relations between the two powers whose connection we are following. But in its main aim of moving Prussia to abstain from invading the Electorate, it was foredoomed to failure. The ministry at Hanover must have felt the chances of success were slight. They were very likely thinking not of what was to be done to avoid Prussia's invasion, but what was to be done to save Hanover's further existence as a separate power. It would have needed firmer faith and greater courage than theirs to withstand the suspicion as to Haugwitz's ultimate designs which permeated all von Reden's reports from Berlin in the crucial months of February and March.¹ But these were mere surmises. As a fact, von Reden let it be seen that Prussia would surely have to

¹ V. Reden's statement of the opinion in Berlin on the matter of occupying Hanover (despatch of March 2) is that the great mass believe in temporary occupation and exploitation. This idea suits the military group and such financiers as von Schulenburg. Another party—Lombard, Beyme, Köckeritz and Haugwitz—favored uniting Hanover to Prussia. The impression von Reden had and so heard from all he talked with, was that Haugwitz was using the English-Russian-French affair as an excuse. "Die wahre Ursache ist die, dass Graf Haugwitz, Minister Hardenberg und Consorten auf die russische Unterstützung sich stützend und wohl wissend, dass die Franzosen ihre Projecten auf den Deutschen Norden (eprouviren?), weil sie diesen gegen England aufgebracht haben, ihren Favorit Plan durchsetzen wollen." They were trying to get the Duke of Cambridge out of the way. (Von Reden's despatch of March 15.)

invade if England maintained its ground.¹ Nobody could know better than King George's son how certainly England would face all Europe rather than yield her supremacy on the high seas.

Duke Adolphus was well fitted by nature and by interest to make an appeal for the country in which he had spent so much of his youth. His acquaintance with the king and queen of Prussia, and his winning ways prepared for him a friendly reception. Captain von der Decken, though a young man, is, it seems to me, to be named with Ludwig von Ompteda and von Münster as one of the three ablest Hanoverians whose talents were then at the service of the ministry for diplomatic missions.

They arrived in Berlin, February 28, and remained nearly all of the month of March—until the occupation of the Electorate created a situation that made the position of the Duke as the guest of the Prussian court too embarrassing. Both were active and both have left on record reports of their activity.² The Duke's object was

¹After von Reden had handed in the note of February 12, he met Hargwitz at a ball and was rather coolly received. "Zugleich liess er so viele Aeusserungen fallen das ich hätte müssen gar nicht sehen noch hören wollen, wenn ich nicht gemerkt hätte dass sich Preussen und die übrigen nordischen Mächte an Hannover halten werden, wenn England sich nicht bequemen will ihren Willen zu thun." Haugwitz points out that it has for six years been difficult to protect Hanover against the French and now that England had embroiled herself with the Northern powers and England's "acharnirter Feind," the Czar, was taking the same view as the French, the position of Prussia was almost untenable. In war it would be impossible to maintain the separation of the spheres of king and Kurfürst in the person of George the Third. The French termed it "une distinction metaphysique." V. Reden, February 14, 1801, no. 584, (*Han. Arch.*) Von Reden notes that he had grasped the Czar's intentions as early as his despatch of Nov. 22, 1800.

²The material for an account of this mission will be found principally at Hanover. *Cal. Br. Arch. Des.* 24, *Brandenburg-Preussen*, nos.

to try by direct appeal to Frederick William III. to prevent if possible the occupation of the Electorate; or, if the occupation was inevitable, to delay it as long as possible, and to arrange it on terms most favorable to the Electorate. They stopped in Brunswick to interview the Duke, and there learned how serious the situation of the Electorate was, that is, that France and Russia were pressing the king to occupy, and that, though he would delay as long as possible, it must be done, and the Duke of Brunswick was expected to take command of the invading army.¹

Immediately on their arrival in Berlin, the energetic von der Decken sought and obtained an interview with Frederick William III., much to the disgust of the royal advisers who were seeking to bring the king to decisive action.² The king only made it plain how helpless he was in the situation created for him by the English steadfastness on the one hand, and the reckless plans of the Czar Paul on the other. Von der Decken who had begun the interview in the conviction that the Prussian plan was to absorb Hanover, left the king convinced that the latter at least was not a party to any such scheme, whatever the ultimate designs of his minister might be.³

585, 586, 587, 589. Also Carysfort's despatches for the period and in *Eng. Pub. Record Office* and Helbig's despatches in the *Dresden Archives*.

¹ V. Decken's report of February 26. Reference has already been made to Haugwitz's letter to the Duke, Feb. 8. Bailleu, ii, 25.

² Köckeritz interrupted the interview several times and started an angry colloquy with Capt. Decken when he came out. Both Haugwitz and Hardenberg are credited with trying to hasten Duke Adolphus' departure. (Duke Adolphus' dispatch of March 15.)

³ Some things that passed in the interview seem worth repeating here. To Capt. Decken's expressions of Hanover's faith in the king's good intentions, Frederick William replies: "Sie können überzeugt sein, dass

The most hopeless phase of the whole situation was Prussia's confession of weakness and lack of independent policy in this critical situation. The interviews of the next few days with the English and Austrian ambassadors did not offer a ray of comfort. The air was full of rumors of how the Russian ambassador was urging again and again the occupation of the Electorate, how Augereau's army was ready to march when Napoleon gave the word, how Prussia was cherishing the most extensive hopes of having Hanover assigned to her as an indemnity.¹ The young envoys wavered for a moment

wenn ich nicht das Raub und Plunder-system verabscheute, meine Truppen das Hannoversche schon längst besetzt hätten. Es fehlt nicht an vielen Eingebungen die zu den gewalttesten Mittel rathen. Ich verabscheue sie. Allein wenn die Engländer mich zwingen so haben sie es mir nicht beizumessen. Ich will meiner Ehre nichts vergeben." I think this must be what Hassall (*Das Kurfürstentum Hannover vom Baseler Frieden bis zur Preuss. Occupation im Jahre 1806*, p. 35), puts in quotation marks.

The king fears a Russian occupation, but gives v. d. Decken the impression that the Czar has not threatened it. (This is March 1.) It will not be enough for England to raise the embargo on the Swedish and Danish vessels. The whole embargo must be raised and Russia conciliated. "Ich muss meinen Rücken frei haben," were the king's words. Captain Decken urged that Prussia would lose more than she would gain by taking Hanover for her indemnity—Westphalia was a better field, suggested the Hanoverian. The king said Prussia had not yet settled her indemnity plan. In summing up his impressions Decken says: "Möchte ich mit meinem Kopfe dafür haften dass der König in seinem Herzen die Besitznehmung der Hannoverschen Länder nicht wünscht, ich habe aber Gründe zu vermuthen, dass Herr von Haugwitz den Plan hat; vermuthlich erst seit einiger Zeit: und den König hauptsächlich durch Drohungen mit den Franzosen dazu zu bringen sucht. Herr von Haugwitz hat den Herrn von Cökeritz auf seiner Seite."

¹ See v. d. Decken's reports of March 9 and 15. (*Hanover Archives*.) In latter report v. d. Decken tells how Haugwitz uses Deluc to convey the news that Lucchesini in Paris has just reported that Augereau is to occupy Hanover if Prussia does not. Haugwitz sends the most solemn assurances that "er keineswegs gewillet sei das Hannoversche zu behalten oder *en séquestre* zu nehmen sondern die Besetzung

and thought of leaving Berlin,¹ but the kindly invitation of the king and his gracious queen, Louise,² determined

lediglich geschehe um das Land gegen die Franzosen sicher zu stellen." This must be kept from the French. Hardenberg gives him the same assurances as to danger from the French. Carysfort was of the opinion that Prussia's step was caused more by Russia, and the threat about the French army was a "Kunstgriff" of Haugwitz. On the same day Duke Adolphus sends an account of an interview in which the king urges him to stay till the king indicated he was to leave. "Dass er (Fred'k Wm. III.) bis jetzt an die Besitznahme des Hannoverschen noch nicht gedacht hatte obwohl er von beiden Seiten dazu sei aufgemuntert worden." An important despatch of Lord Carysfort's of March 14, 1801, tells how he has received a person (Deluc) authorized by Count Haugwitz to say that his Prussian Majesty has found it necessary to determine on the occupation of Hanover in order to keep Augereau out. But the act must in no way be interpreted as hostile to Great Britain or as an obstacle to friendly and close connection in the future. On the 15th Carysfort reports the king's interview with Prince Adolphus. This incident seems to me the most direct evidence available of the cross purposes at which the responsible directors of Prussian policy were working.

¹ Capt. Decken to Regency, March 9.

² V. d. Decken's report of March 13, presents the queen as an intercessor for the land of her birth. V. d. Decken to Regency, Berlin, March 13, 1801.

"Die Königin war gestern so gnädig mir zu sagenich möchte ihre Bitte beim Prinz Adolph, noch eine Zeitlang hier zu bleiben unterstützen, weil sie es so sehr wünsche. Ich erwiederte: dass der Prinz besorge dem König lästig zu sein. Und da sie sich darauf verpflichtete mir als heute Morgen über die Gesinnung des Königs in diesem Punkte völlige Auskunft zu geben, bath ich sie bei dieser Gelegenheit dem Könige unser Land zu empfehlen, worauf sie sich nach der ganzen Lage erkundigte.

Diesen Mittag sagte mir die Königin sie habe mit dem Könige über alles gesprochen. Der König sähe es sehr gern dass der Prinz noch hier bliebe, weil seine Gesellschaft ihm sehr angenehm sei. In Rücksicht unsers Lands hege der König die besten Gesinnungen. Er verabscheue durchaus die Idee sich eines fremden Eigenthums zu bemächtigen, und wurde zu der Besetzung des Hannoverschen nur dann schreiten, wenn er von den Engländer durchaus dazu gezwungen würde." In no. 585 (*Hanover Archives*.) Cf. further on Queen Louise and her attitude toward the neutrality system, *Deutsche Revue*, Sept., 1901, and *Hist. Zeit.*, 88, 557

Duke Adolphus to remain until Prussia was forced out of its inactivity by a definite English refusal to meet any of the Russian-Prussian demands.

Of King Frederick William's good intentions there was little doubt, but his Majesty's hopes and ideas seemed to be in disagreement with views of the situation cherished by such men as Haugwitz, Köckeritz and Hardenberg.¹ The king's words were reassuring, but he himself seemed to feel that the case was hopeless unless Haugwitz accepted Captain Decken's views. At the king's request an interview was arranged by honest

¹See v. d. Decken's report of the preliminaries of the interview with Haugwitz in his report of March 24. He saw the king and queen at a ball on the 21st. In this interview, as well as one on the 1st, von der Decken argues on the basis that Prussia has an idea of retaining Hanover permanently. It is the close of this line of argument that King Frederick William III. approves his ideas and expresses his desire that he convince Haugwitz of it. Later in the evening Queen Louise tells Capt. Decken, "Der König habe keine Neigung nicht einen Mann marschiren zu lassen, er werde aber so sehr gedrängt." The king, it is to be noted, knew what his ministry did not, that England was making an attempt to negotiate with Russia, and so he could oppose their desire for quick action in the hope that a successful outcome might relieve him of his embarrassing situation. Cf. Carysfort's report of March 4, 1801. It seems clear when one reads the English terms concerning Malta (enclosed in this despatch), that England hardly expected a successful outcome and hoped from the negotiations with Russia and their communication to the Prussian king to hold back those powers till the fleet of Parker and Nelson had gotten into the Sound and overpowered the unaided Danes. No wonder that Napoleon stormed at Prussia for leaving the Danes to their own resources.

Carysfort, in his despatch of March 22, in exulting over the unexpected procrastination that had been secured in the Prussian measures against Hanover and England until the English fleet has done its work, considered it "principally due to the presence of His Royal Highness Prince Adolphus, which in every point of view appears to my humble judgment to have been of great importance to his Majesty's service." The delay of hostile measures was highly beneficial to England in allowing her to get supplies from the continent. (*English Record Office.*)

Deluc, reader to the queen. On the evening of March 24, Capt. Decken repaired secretly to the study of Haugwitz and there talked over the whole situation. Haugwitz though friendly, was clearly determined to make the best argument possible for the situation into which he admitted Russia and France had put Prussia. With his usual readiness to make his arguments fit the occasion he laughed at the idea of trying to distinguish the policies of George III. as King and Kurfürst—a distinction which, as has been indicated, was as fundamental to his long cherished neutrality system as any clause in the treaty of August 5, 1796.¹ When v. der Decken conjured up the spirit of Frederick the Great in all the amazement which that great man would feel to see his state in such a humiliating position, doing the behest of its neighbors, Haugwitz frankly avowed the weakness of the state he represented and confessed the opportunism that guided its policies.² Captain Decken presented an exhaustive

¹“Der Unterschied zwischen dem Könige von England und Churfürst von Hannover ist nie verkannt, selbst der Churfürst von Hannover unterscheidet ihn nicht immer. Die Franzosen haben im 7-jährigen Kriege auch darauf keine Rücksicht genommen. Und gesetzt sie hätten es jemals gethan, so ist es jetzt unser Vorthail es nicht zu thun. Er machte sich über die Idee den Churfürst vom Könige trennen zu wollen auf eine etwas unartige Art lustig.”

² Haugwitz said, “Der preuss. Staat könne seinen Kräften zufolge nur eine leidende Rolle spielen, seine Politik erfordere, auf eine geschickte Art zu lauren. . . . seine Politik sei das von selbst zu thun was man ohnehin thun müsse, was sich nur dadurch ein Staat in Ansehen erhalten könne.” I add here the estimate of Haugwitz’s policy made by Helbig, the Saxon envoy in Berlin: “Le principe de ce Cabinet, sous la direction de Mr. le Cte de Haugwitz, est d’attendre toujours les événemens pour y régler après les dispositions à faire.” May 10, 1801 (*Dresden Archives.*)

March 23, 1801, Helbig makes some wise comments on the Prussian occupation. After speaking of King Frederick Wm.’s reluctance, “Enfin la peur de s’exposer à la fureur de la France et de la Russie l’ai em-

memorial which stated and answered all the possible reasons that might be considered by the Prussian ministry as sufficient grounds for the step they were about to take.¹ Haugwitz went through it with him carefully, but remained unshaken in his determination—all the more so since it was, as we have seen, not *his* determination, but a step conceived in Paris² and decreed in St. Petersburg.

Out of the interview with Haugwitz, as in the conversation of Captain Decken with Frederick William III., stands clearly the one idea of keeping free from difficulties with Russia and France. Prussia's duty to her allies of the Maritime League, the alleged disappearance

porté sur la bonté de coeur de ce Souverain. Ce Prince et son Ministère auroient pu s'épargner cette situation critique si de tout tems on avoit tenu un langage ferme énergique et digne de la puissance Prussienne. Maintenant, tout bien considéré, il faut avouer, qu'il ne leur reste pas d'autre moyen que de céder aux impulsions des autres, qui forcent le Roi à faire ce qu'ils exigent ou à compromettre ses propres avantages." (*Dresden Archives.*)

¹ Copies of this able memoir are to be found in Berlin and Hanover. In the former archives it is unsigned and is bound in the volume, *R. XI, no. 140, C. I.*, just before King Frederick William's proclamation to the Hanoverian ministry.

² Direct evidence as to how Napoleon brought his ideas before Paul after their reconciliation is, as far as I know, rather scanty. Jan. 20, Napoleon wrote Talleyrand: "Il parait, Citoyen Ministre, que le Prusse n'a pas été comprise dans l'ordre du conseil privé du roi d'Angleterre. Il faut espérer que Paul la poussera. Ne pourrions-nous pas en attendant contribuer à pousser Hambourg?" *Correspondance*, vi, 736. Napoleon's letter to Paul, Feb. 27, 1801, is better evidence of how the First Consul wished the Czar's co-operation. He proposes that a joint corps of French and the Russian prisoners just freed under the Russian general, Sprengporten, occupy Hanover until peace is made. If Russia closes the North of Germany to England and Napoleon shuts the English trade out of Portugal, they will have the continent closed to England. *Cf. Correspondance*, vii, 63. The references given by Häusser, ii, 347, are not to the point.

of the neutrality of the North of Germany with the signing of the Imperial peace are evidently subordinate to the desire to remain on a friendly footing with Russia, to be free from the danger of attack on Prussia's vulnerable side, thus manifesting her utter inability to resist pressure from both Czar and First Consul.¹ If one seeks, then, to summarize the effective reasons for Prussia's action, they seem to range themselves in a certain relation and order. The long-cherished view of France that Hanover was an English possession, and the loss of Egypt, accompanied by a feeling of French helplessness before English maritime predominance, caused Napoleon to take advantage of the Czar's momentary anger over England's maritime exactions and refusal to yield Malta. By this sudden Russian-French unity in hostility to England, France might hope to force Prussia as a well-intended member of the Maritime League to the occupation of the electorate of Hanover. They could expect by this means to involve Prussia in the scheme of a continental system, and ultimately to embroil her in a war with England.

Lastly, the reader must throw the whole matter on the background formed by the subject of indemnification. Prussia's "Landbegier" was considered inordinate by its

¹ Haugwitz, "Preussen muss nur suchen mit Russland gut zu bleiben." And again, that Prussia could not protect Hanover according to its principle. "Dass Russland ihm auf den Hals gezogen habe." (Capt. Decken, March 24, to the Regency in Hanover.) Frederick William III., "Ich muss meinen Rücken frei haben." (Capt. Decken's interview of March 1.) The king assures Prince Adolphus of Bonaparte's definite declaration that he will occupy Hanover as soon as the peace of Lunéville is ratified if Prussia does not. Prince Adolphus is convinced by this interview that the occupation is brought about by the French danger. See his report to the Regency, March 21, 1801. (*Hanover Archives.*)

neighbors and the English public, the cabinet was credited with plans so far-reaching that the well-intentioned King Frederick William was kept from knowing their ultimate aim. There could be no doubt in times when every power was filing excessive claims for damages, of the interpretation Austria, Hanover, England and the smaller German states¹ would put on the occupation of the Electorate.² Men like Hardenberg dropped remarks about the occupation being permanent, if they had their way, and the responsible minister let it be known that he sought, by watching his opportunity, to turn everything to the advantage of Prussia.³ King Frederick William III. was good, but weak.⁴ Hanover could not defend

¹The opinion of the Saxon envoy (Helbig) and the Minister, Count Loss, is to be found in the despatches of February 23 and March 4, 1801. (*Dresden Archives.*)

March 20, when he has learned from Zastrow that orders have been given to close the mouths of the Weser, Elbe and Ems, he sends *par estafette* news "de cette fâcheuse et terrible expedition, dont les suites sont incalculables pour le Nord de l'Europe et principalement de l'Allemagne." (*Dresden Archives.*)

²*Cf.* Reden's despatch of March 14, 1801, where he says the opinion among the diplomats in Berlin is that Prussia, under cover of compulsion from France and Russia, is seeking to increase its territory. No. 584. (*Hanover Archives.*)

³Helbig, Saxon envoy, to Count Loss, March 31, 1801, ". . . mais je suis pour ainsi dire persuadé que le cour de Berlin ne voudra jamais rendre cette conquête. Si elle suite (sic) le Conseil du Ministre, Baron de Hardenberg, qui a parlé confidemment de cette affaire à un de ses amis, elle gardera ce pays. Si cependant elle peut et que des Cours mieux intentionnées ne s'en mêlent pas cet homme qui ne cherche pas (sic) qu'à dépouiller les autres trouveroit à la fin que toute l'Europe pourroit convenir à arrondir la monarchie prussienne." (*Dresden Archives.*)

⁴In his interview with von der Decken, Haugwitz thoroughly ridiculed the suspicion that Prussia had the remotest idea of keeping Hanover. He assured von der Decken that Prussia was seeking an altogether different indemnity. This we know to be true, but as these indemnity plans were not explained or certainly known, it leaves unmodified the statement in the text as to the way the European public would interpret the occupation.

itself. England was loyal to its sovereign, but indifferent to his German possessions. How dark and hopeless seemed the outlook for Hanover! Apparently the only ground for confidence in the future was the character and good intentions of Prussia's king.¹

But the good character of its monarch alone has never been sufficient to make Prussia a force in European politics. Whatever may have been the intentions of a clique in the ministry, the king's purposes might well have restrained them.² It was a different question when, weakened financially and militarily, the Prussian state, its protests in behalf of maritime rights having been passed over by England in disdainful silence,³ attempted to withstand the threats of France⁴ and the united representations of its allies—Denmark, Sweden and Russia.⁵ Sharp and decided pressure from either east or west would force the long deferred decision on King Frederick William.

¹ "The king's intentions I believe to be honorable, but his weakness extreme." Lord Carysfort, March 15, 1801. (*English Record Office.*)

² Carysfort had very little confidence in the Prussian king's effective influence. March 17, 1801 he writes, "There is evidently a difference of opinion in regard to the occupation of the Electorate of Hanover between the King and his Ministers from which, however, no results very favorable to Great Britain can be expected. The King may wait in the hope that England and Russia may be reconciled, but should that event take place the habit of irresolution and the want of sufficient military preparations would leave in all probability the Councils of Prussia too much under the influence of France."

³ The reference is to the Prussian note of February 12, 1801. Cf. Martens, *Recueil*, 2nd edition, vii, 215 ff.

⁴ Besides the material already cited on this point the reports of von Reden reproduce the rumors current in March that Augereau had been hastily summoned to Paris to concert a French occupation.

⁵ Reden reports such protests March 7 and 14, 1801, *no. 584*. Similarly in Lord Carysfort's despatch of March 7. March 10 and 14, Reden writes that Russia is urging Prussia to seize Hanover.

The Russian Czar had already given proof of the lengths to which his hatred of England might carry him against those who did not rise to his degree of anti-English fervor,¹ and all attempts to point out to him that Prussia's participation in the Maritime League ought not to involve her in the English-Russian difficulties over Malta, fell on deaf ears.² The proposal that Prussia receive Hanover as its indemnity³ left no excuse for misunderstanding the situation as Paul viewed it. He was willing to sacrifice the traditional Russian policy in North Germany by increasing Prussia's power immoderately if the step in any way injured England. All hopes that half-way measures⁴ would content, were removed when in the early morning of March 25, Krüdener aroused Haugwitz and presented Paul's indemnity plan, assigning Hanover in lieu of the Franconian bishoprics

¹February 23, he issued a most extraordinary ukase forbidding the exportation of Russian products to Prussia because they reached England through that channel (the ukase is given in Martens, *Recueil*, 2nd ed., vii, 220). This ukase was modified by a succeeding one so that exportation took place provided Prussia saw to it that the products did not reach England. *Deutsche Zeit. für Geschichtswissenschaft*, N. F., ii, 253-54. The way he had coerced Denmark and Sweden into the Maritime League exhibits his spirit and methods. Jan. 1, 1801, he had incontinently dismissed the Danish envoy, Rosenkranz, from St. Petersburg because neither Rosenkranz nor von Bernstorff, the Danish prime minister, had favored the League. See Helbig's despatch of January 29, 1801 (*Dresden Archives*). Lusi, the Prussian minister, was thankful to escape the same fate.

²See Prussian ministry to Lusi, Jan. 9, 1801 (*Berlin Archives*).

³See below. Throughout March, Russia was urging Hanover as an indemnity. Cf. Lusi's dispatches of March 10, 13 and 17 (*Berlin Archives*).

⁴Such as occupying the mouths of the rivers and later occupying Hanover *en sequestre*. Rostopsin, Russian vice chancellor, to Lusi, Feb. 14 (*Berlin Archives*).

which Prussia had desired.¹ Krüdener was commissioned to do more than proffer, he was to threaten Prussia with an army of 80,000 Russians then moving towards Lithuania.² If Prussia did not decide within twenty-four hours to send its troops into Hanover, the representative of Russia was to quit Berlin.³ Such a serious

¹ Bailieu, ii. 41-42. The original of Paul's plan is nowhere preserved. The best authenticated copy is in Alex. Wassiltchikow, *Les Razoumowski*, vol. ii, pt. i, p. 405. (*Ed. française*, by A. Brückner.) The extract there given was made by Count Andre Rasoumowski from a note found in Paul's desk after his death. The reference to Hanover is: "Que l'Empereur propose au Roi de Prusse de se dédommager sur le Hanover de ses cessions au delà du Rhin et réserve au Danemark la ville de Hambourg."

² (Bernhardi.) *Hist. Zeit.*, iii, 156. The date given there should be corrected in accordance with Prof. Ulmann's suggestion. (*Zeit. f. Geschichtswissenschaft*, N. F., ii, p. 258, note 2.) Sugenheim, *Russlands Einfluss auf Deutschland*, ii, 191, cites as proof of Paul's earnestness in his demand, the march of Russian troops toward the Prussian boundary. In Schiemann, *Die Ermordung Pauls*, etc. (Berlin, 1902), p. 74, Bennigsen and Subow in their statement mention among the vagaries of Paul the plan to conquer Altpreussen. In Weljaminow-Sernow's statement (p. 24 of Schiemann) it is mentioned that he declared war on several nations a few days before his death. Prof. Ulmann gives other references to works that accept this threat of Paul's, *Zeit f. Geschichtswissenschaft* (as above), p. 259, note 2. The best evidence that I have found that military movements against Prussia were part of Paul's plan is in a pro-memoria of the Mecklenburg court chamberlain, von Lützow, enclosed by von Reden in his despatch of August 3, 1801. (*Han. Arch.*, no. 589.) Lützow had been the bearer of secret overtures from England to Russia early in the year (see Carysfort's despatches of January 21 and Hawkesbury's instructions to him February 13, 1801, *Eng. Rec. Off.*), and had been in St. Petersburg at the time of the crisis. Lützow's memoir is dated "Month of June—Pawlowsk." He explains the harshness of the Prussian tone in the note of February 12 by its desire to satisfy Paul, "denn es ist ganz sicher dass eine starke Armee schon in Anmarsch war die Preussen zu zwingen die Hanoverschen Lande zu besetzen." The present Czar told him (Lützow) that the troops then in motion were stopped by a courier sent out two hours after Paul's death.

³ *Sbornik Ruskajo*, vol. 70, p. 672, for a minute of the order dispatched

situation¹ admitted of no delay, and at a conference held in Potsdam² on the 26th, and attended by the Duke of Brunswick, it was decided to hurry forward the Prussian troops already under orders to march.³ General Kleist,

on March 11. The dispatch in the *Sbornik* does not mention the Russian army. I have here simply verified a reference made in Prof. Ulmann's article already mentioned. On March 25, Haugwitz summoned Carysfort to discuss with him confidentially the relations between the two countries. "Instead, however, of pursuing this intention, he shortly and drily informed me by command of the King, his Master, that no answer having been returned to the note of February 13, and England having committed hostilities against Sweden and Denmark on the open sea and in the ports of Norway, and a large fleet having put to sea apparently designed to act in the Baltic (note: Parker and Nelson had sailed on the 12th), his Majesty had found himself obliged to use all the means in his power for the support of His Allies, And that his troops were now on their march to occupy the Sea Coast and the posts commanding the Elbe and Weser. I contented myself with observing in reply that the intentions of Prussia had long been beyond doubt, and the pretexts now alledged by his Excellency could only tend to confirm an opinion very generally entertained that the conduct of Prussia was dictated in reality by considerations wholly distinct from the differences existing between England and the powers of the North." In concluding his despatch Carysfort correctly summarizes the situation: ". . . I remain persuaded that Fear is still the predominant motive of this court, and that its measures depend almost exclusively at this moment upon the decisions of the Russian Emperor." (*English Record Office.*)

¹ March 29, 1801, Carysfort encloses in translation a note from the Duke of Brunswick to Capt. Decken: "Do not remain any longer here. I hope to have the honor of seeing you to-morrow. We have received very bad news from Petersburg, from which may be collected that Paul makes the fate of the Electorate depend on Malta. I wish the Prince would send information as fast as possible to England of this confounded situation of affairs."

² No record of this conference has been preserved as far as I have been able to determine.

³ According to a dispatch to Lusi of March 23, cited by Ulmann, the marching orders had been issued that day. There is similar evidence for a still earlier date. It was with tears in his eyes that Frederick William announced to his council his decision to occupy the Electorate, and the whole topic was one he could hardly be brought to discuss (Col.

and not the Duke of Brunswick¹ as had been expected, was put in command of the occupying army, and Minister of Finance, Schulenburg-Kehnert,² was dispatched to act

Zastrow to Helbig, the Saxon envoy, March 12). Besides the repeated assurances given by both the king and Haugwitz that he had no hidden purpose in the occupation (see the reports of the Duke of Cambridge, Adolphus, and Capt. Decken, already referred to), the king, on April 18, wrote Prince Adolphus as follows: "Monsieur Mon Cousin: Si je puis compter sur la justice des autres lors qu'il s'agira d'apprécier les mesures que j'ai de suivre, vous aussi devez compter sur la mienne, quand occupé d'un seul intérêt vous m'entretenez du país qui en est l'objet des sollicitudes qu'il vous inspire. Le sentiment qui vous fait parler est aussi naturel qui le principe qui m'a fait agir était juste. Je crois avoir satisfait à l'un comme à l'autre, et m'être acquitté envers l'humanité autant au moins qu'envers d'autres considérations. Sans prévoir les bornes que celles-ci pourraient prescrire, je n'oublierai point celle-la et jamais des calamités superflues n'auront pesé par ma faute sur un peuple. Ces sentimens sont absolument indépendant de ceux que je vous porte, Monsieur mon cousin, quelque vrais que soient ces derniers. Il en résulte que si l'amitié ne peut rien sur les principes eux aussi n'ont rien fou sur elle et que je suis et serai toujours avec l'attachement le plus sincère. Monsieur mon Cousin, de Votre Altesse Royale le bon cousin.

Potsdam, 18 Avril, 1801. AU PRINCE ADOLPHE D'ANGLETRRE."

Rep. XI, 140 C. I., Vol. I (Berlin Archives).

¹ It is likely the Duke, who had provisionally accepted charge of the military arrangements, finally felt it would be putting himself in an embarrassing position if he commanded Prussian troops invading the lands of the head of his house. Helbig, Saxon envoy, develops at length the idea that the Duke learned at the conference of ulterior aims in the Prussian policy, and did not desire in any way to figure as Hanover's despoiler. See Helbig to Count Loss, March 31 (*Dresden Archives*). He appends the substance of Paul's indemnity plan, despatched, he says, twelve hours after the receipt of Prussia's proposal by the hand of LeCoq. This last is quite impossible, as LeCoq did not leave Berlin before March 13, and would consume almost two weeks in reaching St. Petersburg.

² Helbig says of him, February 16, 1803: "Le crédit arrogant de ce Ministre indispose tous les esprits contre lui. Sa disgrâce seroit possible parce que le Roi le craint et le déteste et qu'autour de ce Prince, il n'y a absolument personne qui plaide sa cause mais comme il n'y a aucun sujet capable de le remplacer entièrement cette disgrâce ne devient pas très,

as civil governor of the Electorate. The connection of the Regency with the sovereign was cut off and the ministry relieved of all responsible part in the general government of the land. The local administration was left undisturbed, but as a political power Hanover could regard herself as non-existent.¹ I doubt not that many a Hanoverian expected to see in this, Prussia's centennial year as a kingdom, the end of Hanover's course as an independent Electorate. But the day of her political resurrection was nearer than anybody could dream. Its herald was to be a messenger from the capital on the Neva!

probable." (*Dresden Archives*.) For Schulenburg's activity under Frederick II. see his *Denkwürdigkeiten in Forschungen z. Brandenb. u. Preuss. Gesch.*, xv, 2.

¹ "Hannover müsse sich von der politischen Seite als nicht existierend ansehen." Haugwitz to von d. Decken per latter's report of March 24, 1801. (*Hanover Archives*.) V. Reden in Berlin was not officially recognized by Haugwitz until November. With the death of Paul, and the return of Schulenburg to Berlin, the Regency came back to control in order to arrange with von Dohm the support of the army. The connection with King George was nominally suspended throughout the occupation.

CHAPTER VIII

PRUSSIAN OCCUPATION OF HANOVER (CONTINUED)— THE EVACUATION

WITH occupation before it for two months,¹ as something inevitable, the Regency in Hanover had had time to consider what it would do when the Prussian occupation really took place. Yet there was no serious thought of opposition.² The mission of Capt. Decken, the friendly attitude of the Duke of Brunswick, who had charge of the military details, and Frederick William's honorable purposes, had affected a modification of the harsh terms at first proposed. The threatening proclamation drafted by Haugwitz,³ and issued by von Schulenburg as civil governor of the Electorate, was framed to satisfy the foreign powers whose agent Prussia was.⁴

¹ Feb. 10, von Reden wrote: "Gott gebe, dass das englische Ministerium gelindere Maasregeln einschlagen möge, weil sonst nach den Versicherungen eben dieses Gesandten (Posch, envoy of Bavaria, whom twenty years' service in Berlin had made very Prussian-minded) die militairische Occupation von Hannover unvermeidlich sein würde." *No. 584 (Hanover)*.

² V. Lenthe in *Zeit. d. hist. Vereins f. Niedersachsen*, 1856, 156-57. Pages 149-164 deal with the Prussian occupation of 1801.

³ Capt. Decken's report of interview of March 24 contains Haugwitz's statement to Decken that he was then at work on the proclamation.

⁴ Köckeritz writes to Haugwitz concerning the instructions H. had drafted for Schulenburg: "Ich war über diese Instruction ganz entzückt, sie bedeckt unser Fehler wegen der langsamen Besetzung und lässt auf der andern Seite den König in dem schönsten Lichte der Gerechtigkeit und Billigkeit erscheinen." (*Berlin Archives*.)

The Regency and General von Wallmoden-Gimborn accommodated themselves to the new situation and signed a convention with Schulenberg April 3, 1801. By its terms the Hanoverians promised not to resist the movements of General Kleist's army, whose support they were to assume after the first of May. The Hanoverian troops then with the Demarcation Army were furloughed or distributed as garrisons in rather widely separated towns.¹ All other fortresses and garrison towns, including Hameln, were turned over to the Prussians. Lastly, a solemn promise was given that the Prussian laws and the ordinances of the government of occupation would be strictly obeyed.²

The submission was made in bitterness of spirit. The ministry to the very last, and indeed throughout the summer, remained outwardly unconvinced of a danger from France sufficient to justify the occupation. Despite the assurances of the Prussian king and his ministry to the contrary, the secret purposes which von Reden attributed to them in occupying Hanover were accepted by the Regency as proved truth.³

¹ Carysfort proposed that they be taken into the English service. Carysfort, to the English ministry, March 29, 1801. (*Eng. Record Office.*)

² The convention is printed in Martens, *Recueil*, 2nd. edition, vii, 351-52. Its opening paragraph sums up the points in Fredk. Wm.'s address to the Regency. The full text of the address and of the king's proclamation setting forth that his duty to his allies of the Maritime League requires the occupation, etc., both dated, March 30, 1801, are to be found in *Rep. XI, 140, C. I, Vol. I.* (*Berlin Archives.*)

³ Von Reden's reports of March 2 and 14 show the sort of rumors he heard. His opinion of Haugwitz and his intentions is to be found in his despatch of March 28, 1801. (*No. 584.*) After saying that he does not believe as many do that Haugwitz has given up his "reunion projects," von Reden adds: "Die Gleissnerei dieses Mannes ist von der Art, dass er noch manche betriegen wird, und so dürfte es gewiss Gelegenheit genug finden um seine ferneren Demarchen zu beschönigen."

Their spirit is partially revealed in the closing paragraph of the convention by which they make their submission. The paragraph is made to embody an allusion to Frederick William III.'s solemn promise to restore their government and keep their territory intact.¹

The appointment of Schulenburg proved but temporary,² and he was soon relieved of the most unpleasant situation in which his duties placed him.³ On the eleventh of April the ever serviceable von Dohm was ordered to go to Hanover to take charge of a subject with which the negotiations of 1796 had made him familiar—the “*Verpflegung*” of Prussian troops at Hanover's expense.⁴

It is hardly profitable to surmise what would have been

¹ Martens, *sup. cit.*, p. 352. The clause about the guarantee of territory may well have had some references to keeping the Danes from fixing themselves in Lauenburg. Cf. von Schulenburg to Prussian Ministry, April 3. Regency to Schulenburg, April 7. (*Berlin Archives, Rep. XI, 140 c, Vol. I.*) Schulenburg had difficulty in getting the Regency to countermand their orders to the Hanoverian troops to fight if the Danes advanced. Haugwitz and Köckeritz had even more difficulty in getting King Fredk. Wm. III. to oppose the Danish aggression.

² Whether this was the original intention, I do not know. He was recalled one week after the news of the death of Paul, and was used later to organize the provinces assigned to Prussia as an indemnity.

³ So bitter was the feeling against the Prussians that von Schulenburg was socially ostracised in Hanover, and persons such as von Ompteda, who had known him in Berlin and felt inclined to show him ordinary civilities, were treated as abettors of invasion. Schulenburg represented to the Regency that faction in Berlin which stood for a temporary occupation and exploitation of Hanover under the pretext of indemnity for English seizures of Prussian vessels. (See von Reden's despatch of March 2, 1801, in *no. 584.*) Von Helbig, the Saxon envoy, writing in 1803 on the unpopularity of von Schulenburg and Frederick William's dislike and fear of him, adds, “Il joint une excellente tête à une ambition démesurée et une mauvaise cœur.” (Feb. 6, 1803—*Dresden Archives.*) Schulenburg was back in Berlin by April 19.

⁴ *Berlin Archives. Rep. XI, 140 c, Vol. I.*

the outcome of the situation as it was on the third of April; for within twenty-four hours after the submission of the Regency, the kaleidoscope of European politics had shifted. April 4,¹ racing Russian and Prussian messengers arrived with the news of the death of the Czar Paul on the night of March 23-24—a stroke of apoplexy²—a stroke of Fate! The despairing cry of Napoleon,³ the wild rejoicings at Vienna, the relief in London, and the confusion of plans in Berlin, as the news of the death of Paul swept from capital to capital, are striking tributes to the power and place of the realm of Peter the Great, even when ruled by a madman. In a twinkling the card house of the Maritime League had come tumbling down.⁴ Napoleon must wait until the day of Tilsit to perfect the plans he had seen so fairly under way. England halted the triumphant fleet of Parker and Nelson, and sought to resume the friendly relations which the personal program of the late Czar had so suddenly interrupted. And Prussia—she might well indulge in vain regrets that the assassins had not acted two months, or even two weeks earlier. The situation in which she was placed by the change at St. Petersburg seemed fully as untenable as the one she had tried to occupy since her entrance into the Maritime League. From the Prussian point of view, the accession of Alexander I. removed the danger from the side of Russia, but only after that long threatening danger had committed the reluctant Frederick William III, to a step often delayed, ever regretted.

¹ Carysfort's despatch of that date.

² This was the rumor the first despatches brought.

³ Lucchesini's report of April 17, Bailleu, ii, 38.

⁴ " . . . ce prince n'existant plus, la convention maritime était presque dissoute." Haugwitz to Beurnonville, Bailleu, ii, 43.

It was the irony of fate that the same issue of the London dailies contained the details of Nelson's victory at Copenhagen, of the assassination of Paul I., and a copy of the proclamation which the king of Prussia sent ahead of the army occupying Hanover. The problem which this combination of circumstances placed before the Prussian king and cabinet was how to get out of Hanover without disgrace, or remain in it with peace and honor.

Let us take up the history of Prussia's stay in Hanover from April to November, 1801, from that point of view which will at least help us to understand the attitude of the majority of the powers interested in ousting her, while we leave the presentation of the evidence to throw what light it may on the motives controlling the action of Prussia in these months.

The summer of 1801 is a period that any self-respecting German may well wish to blot out of the history of the Fatherland. War had at last ceased for a time on the continent. The treaty of Lunéville gave Austria and the weary Empire the long desired and long deferred peace. But to what purpose did the renewal of amicable relations between the European courts serve? The answer is the record of a traffic in lands and peoples such as Europe had never before seen.¹ The first year of the new century saw in its fullest fruition the eighteenth century idea that princes might barter in peoples, and measure and apportion countries by acreage and population. Most shameful of all, the crowded mart in which German sovereigns traded was on foreign soil—in the

¹ Von Reden wrote from Berlin, March 17, 1801, "Indemnity (Tausch) projects are rising and dying every day." (*No. 584, Hanover Archives.*)

capital of the French.¹ Secularization and indemnification proved to be two ideas more demoralizing to the Germany of 1801 than any other propaganda of Revolutionary France. They were the rope with which the already moribund Empire might end its career.²

It is the fear that she is to form part of the Prussian indemnification which haunts Hanover during the period of Prussian occupation. It is this interpretation that England,³ Russia and Austria are all too ready to put on Frederick William's delay in evacuating the Electorate. It is the desirable indemnity towards which Napoleon and self-interest pushed the group of advisers next to the king in Berlin. Might not the statesmanship of opportunism urge the ruler of Prussia to accept the rich return that occasion had brought within his grasp?

In the secret articles of the treaty of August 5, 1796, Prussia had received the promise of complete indemnity for its lost trans-Rhenane provinces. Since then the question had never ceased to interest the Prussian cabinet. After due consideration the king of Prussia, on the advice of Haugwitz following the plan urged by Hardenberg, had asked Napoleon to assign him his indemnity

¹All these evils are even more pronounced in 1802. See Treitschke, *Deutsche Gesch.*, i, 184, 185.

²It is to be regretted that there is no general history of the idea of secularization from the period of the Lutheran revolt nor any extended account of its combination in 1795-1803, with the idea of indemnifying German states for their losses beyond the Rhine and in Italy. Häusser, ii, pp. 333-435, is the best brief account available. A considerable amount of material is given in E. A. von Hoff, *Das deutsche Reich vor der französischen Revolution und nach dem Frieden von Lunéville*. (Gotha, 1801.)

³*Cf.* despatches to and from Lord Carysfort. Of the London dailies, the *Porcupine* is most certain that the whole project existed anterior to the Maritime League. *Cf.*, *e. g.*, issue of March 16, 1801.

in Franconia, that is, the bishoprics of Bamberg and Würzburg. Napoleon delayed on the pretext that he wished to learn the opinion of Russia in the matter. Prussia, fearful that Austria was being favored, increased her claims and renewed her urgency. The French leaders had a different view of their policy in Germany than that maintained up to 1797. Instead of increasing Prussia and creating a balance to Austrian power,¹ they had felt the reasoning of such statesmen as Sieyès, who urged that French interest lay in building up a number of small states which could be formed into confederations under French influence.² Russia had made known its views in Berlin on March 25, when Krüdener had presented to Haugwitz the idea that Prussia was to seek its indemnity in Hanover. This was the opportunity the French had long waited.³ With Russian coöperation they might well hope to force Prussia to seat itself forever in the German lands of the English royal family. Despite the tempting offers of Hanover, Prussia continued to urge the powers to assign its indemnity in Franconia.⁴ On the thirteenth of April, Talleyrand told the Prussian ambassador, Lucchesini, that Napoleon did not approve of Prussia's petition to be allowed to occupy the Franconian bishoprics.⁵ Napoleon, hoping for the new Czar's coöperation in this part of Paul's indemnity plan,⁶ urged that Prussia accept Hanover as a recompense

¹ See Carnot's views as expressed in Aug., 1796. Bailieu, i, 87.

² Cf. his report of July 14, 1798, in Bailieu, i, 481.

³ Lucchesini, April 5, Bailieu, ii, 37.

⁴ Lucchesini, after explaining to Talleyrand Paul's indemnity plan and the reasons for rejecting it, renews the demand for the S. German bishoprics, April 10, 1801, in Bailieu, ii, 37, 38.

⁵ Bailieu, ii, 38.

⁶ Lucchesini, April 24, Bailieu, ii, 40.

for the loss of its provinces on the left bank of the Rhine.¹

There was much in the situation that seemingly made it easy for Prussia to yield to the formal offer of Hanover made from St. Petersburg and then from Paris.² It hardly needed a Talleyrand to point out to such a group as Haugwitz, Lombard, Hardenberg, and Köckeritz the advantages of acquiring such an increase of power and territory in North Germany.³ The idea was not new in Berlin, and before the occupation there had been influential advisers who felt Prussia should enter Hanover never to withdraw. Their logic was strengthened by the easy opportunity which Napoleon's offer gave them of shifting the responsibility. If France offered Hanover, why not accept it, said this group.⁴ Besides the manifest increase in territory, Hanover would serve to unite the scattered Prussian possessions in lower Saxony and Westphalia. It needs no direct quotations from the

¹ Lucchesini, in his dispatch of April 24, details the interview with Talleyrand. Bailleu, ii, 39-40.

² May 2, 1801, Talleyrand directed Beurnonville to make a tender of Hanover as Prussia's indemnity. The French offer specified the independence of the Hanseatic cities, the renunciation of all the claims to indemnity, that the electoral title of Hanover was to pass to Hesse-Cassel, and France was to be confirmed in its rights to dispose of Neuchâtel and Valengin. See Bailleu, ii, 40-41.

³ Von Reden (dispatches of March 2 and 15, 1801, in no. 584, *Hanover Archives*) says there are two groups in Berlin, each having a different view of the occupation. The military party and finance ministers, led by von Schulenberg, believe in temporary occupation and the exploitation of the province. The second group, Lombard, Beyme, Haugwitz and Colonel Köckeritz, favor the union of Hanover with Prussia.

⁴ Von Reden's dispatch of June 30. The only difficulty this group recognized was the opposition of the king. (*Hanover Archives*.)

political discussions of that time to make it clear how strong a case such a group might present.¹

There were features of the case not fully known to Napoleon which gave Prussia reason to pause and consider before accepting Hanover as an indemnity. It is a tribute to the well-meaning character of King Frederick William that one must recall first of all his solemn assurances to Prince Adolphus and Lord Carysfort that he had no ulterior aims in occupying Hanover. The promises which he had then made, the king might be expected to keep,² even if his opposition to the aggressive elements in his cabinet had not been fortified by the attitude of England and Russia and the vigorous protests of the Electorate itself against Prussian occupation after the Maritime League was practically dissolved.³

Since it was Russia whose precipitancy had put Hanover into Prussia's hands, it was natural that the Berlin Cabinet should look to Alexander I. to support them in a step which had been taken with a view to treating Hanover as a part of the indemnity fund.

Their fears that the death of Paul had deranged all plans fathered by him did not long lack confirmation.⁴ The young Czar found in his own realm all the problems

¹ This importance of Hanover to Prussia is shown by Haugwitz when, in discussing the indemnity question, he says that if they take Hildesheim it will bring Hanover more under Prussian control. Bailleu, ii, 27.

² When the French in June renewed their proposal that Prussia keep Hanover, Köckeritz wrote Haugwitz that he thought the idea would be very acceptable to the king, if the changed circumstances allowed and it did not run counter to the treaty of Lunéville. Köckeritz had not talked with the king on the subject. Bailleu, ii, 50.

³ June 17, von Lenthe handed a vigorous protest to Jacobi in London.

⁴ Köckeritz to Haugwitz, April 4, adds, "Jedoch die Vorsehung weiss am Besten was gut ist." (*Berlin Archives.*)

he desired to solve, and was in no mood to continue a hopeless crusade for the maritime principles which his father had espoused. Sweden and Denmark had already been humbled by the fleet of Parker and Nelson, then on its way up the Baltic. Alexander hastily opened communication with these commanders and with their government. Negotiations were soon opened by England through Lord St. Helens in St. Petersburg, and Prussia, without a single war vessel, found herself the unsupported defender of maritime neutrality.¹

The answer which Haugwitz made to the French ambassador would naturally, under the circumstances detailed above, be fully as cautious as the reply given Paul when he made a similar offer two months before. In March, Prussia could have counted on two great powers favoring Hanover as a Prussian acquisition. Now (May) there was only France to look to, or rather the hard cold egoism of Napoleon, who might make them his tool only to abandon them at a critical juncture. Haugwitz let it be seen that nothing would suit the king of Prussia better than Hanover as his indemnity, but his acceptance of the French offer was conditional. Prussia was still occupying Hanover as a pledge for the protection of English commerce, Haugwitz said, and would retain it as her indemnity if England persisted in her opposition to the principles of the Maritime League after France had made

¹ In G. Martens, *Recueil*, etc., *Suppl.* ii, 461, is part of a letter purporting to be from Czar Alexander to King Frederick William demanding that Hanover and the mouths of the Elbe and Weser be evacuated. Baron Reden, in his report of July 22, 1801, says that among other correspondence shown him by Krüdener in proof of Russia's friendly efforts on the Electorate's behalf was a letter from the Czar to the king dated May 6. Dr. Bailleu assures me that in gathering material for volume 29 of the *Pub. a. den K. preuss. Archiven* no such letter could be found.

it clear to England that such obstinacy would result in the Prussian retention of Hanover. As such action of Prussia's might lead to difficulty, King Frederick William was not ready to involve himself unless he was sure Napoleon was so in earnest about the plan that he would not be deterred by possible consequences in carrying it through. All the conditions attached to the French offer are swallowed without a grimace. If Hanover falls to Prussia as a result of the French action, her gratitude will be boundless. Such in substance was the answer that Prussia made *mutatis mutandis* to both Russia and France when they offered her Hanover. The reply to Russia, reaching St. Petersburg several days after Paul's death, had been passed over in silence by the new Czar and his ministry.¹ There can be no more satisfactory comment on Prussia's attitude in the whole matter than that made by the disgusted Bonaparte. "The First Consul thinks he sees in the answer of the Berlin Cabinet," said Talleyrand to Lucchesini, "a desire to have, and a fear to show this desire, a will subordinated to reservations that are rather embarrassing. One would say that you desire what France offers you, but you wish France to take the lead and secure it for you."² One might have replied that Napoleon could not object if the power which had found itself a cat's-paw for Russia and France showed that it had learned, and wished to practice, this lesson of its experience.

Meanwhile Haugwitz, in reply to the clamoring of the Hanoverian Regency and the inquiries of Carysfort, shifted, with a suspicious readiness, the ground on which he based a continued occupation. He first urged the

¹ Beurnonville to Talleyrand, May 24, in Bailleu, ii, 41-43.

² Bailleu, ii, 43, footnote 1.

continuance of the neutrality of North Germany after the Maritime League was inactive and then gave the fumbling excuse that Prussia could do nothing towards removing its troops until it had notification from Russia that friendly relations had been resumed with England. Allusions were made to possible dangers from the French, but that was scarcely urged as a reason. Meanwhile, as has been pointed out, the Berlin cabinet was listening to Napoleon's offers of Hanover, and hoping that England might be brought to sacrifice Hanover in return for some grant of colonial possessions.¹ Who was to pay this price for Prussia's indemnity does not appear. In London, Jacobi was following his instructions and dodging all discussion of Hanover. Plainly, the government in Berlin meant to maintain its advantageous position in Hanover until something turned up. They were counting on the weakness of the new Czar's policy and the necessity in Russia of bringing order out of the chaos created by the late Czar.² England, too, had seldom been known to exert itself on behalf of King George's German states.³ Austria, by its own confession, was too weak to interfere with Prussia's ambitious plans.⁴ To that in-

¹ Instructions for LeCoq, Prussia's agent in St. Petersburg, May 18, 1801, and LeCoq's reply, May 21 / June 2. LeCoq suggested Osnabrück, etc., as indemnities for the king of England. Despatches to and from LeCoq who left Berlin, March 13, to arrange with Paul indemnity matters and measures necessitated by the armed neutrality are in *Rep. XI, Russland, 149 D, March, 1801, to January, 1802. (Berlin Archives.)*

² See Lusi's dispatch of April 5/12 (?), 1801. April 26 / May 8, Russia rejected Prussia's plans of indemnity in Franconia.

³ Lord St. Helens, then (June, 1801) in St. Petersburg, repeated the oft-made declaration that the English cabinet did not let considerations about Hanover affect its actions.

⁴ Count Stadion's remark to von Reden. See latter's despatch of May 23, 1801, in *no. 589, Hanover Archives.*

creasing group among the king's advisers who desired to retain Hanover, the outlook must have seemed at first rather hopeful. If England and Russia were really indifferent to the annexation of Hanover, France eager for it, and Austria weak enough to feel that she must make the most of the inevitable by accepting all that was offered her in return,¹ the Electorate would be left to face its fate single-handed. King Frederick William's sense of honor remained to be dealt with, but that problem had been solved before.²

The summer of 1801 was to reveal something seldom paralleled in the history of the one hundred and twenty-five years of Hanoverian-English connection. For once, the English cabinet, with Lord Hawkesbury as Secretary for Foreign Affairs, directed its policy with a view to the preservation of the Electorate, which was now unjustly suffering for England's opinions on international law.³ On the eighth of May the English ministry for the first time mentions Hanover in its despatches to the ambassador in Berlin. The able and disinterested Carysfort, who had already raised his voice in Hanover's behalf,⁴ was to convey to Prussia the assurance that there could be no resumption of friendly relations between England and Prussia

¹ Carysfort felt that Austria needed to be braced up by being told England's view of the continued occupation. Cf. Carysfort to Hawkesbury, June 23.

² See notes of Köckeritz to Haugwitz on the matter of getting King Frederick William III. to oust the Danes from Lauenburg for an example of the king's ways and Köckeritz's management of him. April 2, 4, 9, 12. *Rep. XI, N. 140 C. 1, Vol. I. (Berlin Archives.)*

³ V. Lenthe, in his defence, elaborates on England's fear of Hanoverian influence and general indifference to Hanover's fate. He says this was the case in 1801. Cf. *Zeit. d. hist. Vereins für Niedersachsen*, 1856, pp. 162-164.

⁴ See his dispatches of March 26 and April 19, 1801.

“as long as his Prussian Majesty’s conduct is in the least degree equivocal respecting Hanover.”¹ Every consideration of honor and policy was put at Carysfort’s disposal, that he might the better accomplish his end. The directions could have been sent to no more earnest friend of Hanover than Lord Carysfort. From this day until the twenty-fifth of October, when his last official despatch conveys the news that the Prussian troops are ordered to leave Hanover, the activity of Lord Carysfort in behalf of the Electorate is incessant. To his mind, “the government of the united kingdom was bound by every principle of Honor and Policy to support and vindicate by the exertion of all its Power and resources, a people invaded in such a manner and upon such pretences as had been alleged in the case of Hanover.”² He supported with vigor and persistency the protests of the Hanoverian Regency against the Prussian financial exactions³ in raising support for their force of about 25,000 men.⁴ He saw Haugwitz often in the name of the king of Great Britain, and drove the minister from point to point in his shifting defence of the Prussian retention of the Electorate. Early convinced of Frederick William’s good intentions,⁵ he came to fear that the

¹ Instructions to Carysfort, May 8, 1801. (*Eng. Record Office.*)

² Carysfort’s despatch of July 8, 1801.

³ Carysfort’s despatch of June 20.

⁴ The Regency protested to von Dohm on June 14, and on June 17, v. Lenthe in London and von Reden in Berlin handed the representatives of Prussia demands in the name of the king for the evacuation. See *Des. II, no. 70, Rescripte des Ministeriums zu Hannover an den Gesandten v. Ompteda zu Regensburg, etc.* (*Hanover Archives*), for copies of these memorials and correspondence with von Dohm during the summer.

⁵ Lord Carysfort, May 17: “Whatever may have been the secret intentions of some members of the Prussian Ministry respecting Hanover,

cabinet had only used the Maritime Convention as an excuse for the annexation plans they cherished.¹ Intermittently and weakly supported by the Russian ambassador, Krüdener,² all the protests of Carysfort and von Reden were unsuccessful in getting the Prussian government to declare its intentions, or even arrange for a continued occupation under a joint agreement between England and Hanover. The failure is to be attributed less to the zeal of the English ministry and its representative³ than to two other noteworthy causes. As Russian urgency had been foremost in pushing Frederick William III. into the occupation, equally vigorous Russian action might have hurried Prussia out of the Electorate. It was this withdrawal of Russia from European interests, and particularly from a situation she had cre-

the King, I am fully persuaded, has never entertained the idea of appropriating it to Himself, and the Sentiments of the Cabinet on the subject I now believe to be one with his Majesty's." Czar Alexander I. had the same trust in Frederick William's good intentions, but was suspicious of his advisers. Von Reden, Aug. 1. (*Hanover Archives.*) Duke of Oldenburg, who had been to St. Petersburg, brought this message to von Reden.

¹ Carysfort, June 30, 1801. (*English Record Office.*)

² Russia did not seek to make effective its desires as to Hanover until July, 1801. Von Reden, July 21 (*No. 589*), and Carysfort, July 8, 1801.

³ Downing St., July 18 (Hawkesbury to Carysfort), "... and although there is no intention on the part of this country to interfere in the Internal concerns of the Electorate no steps can be taken towards adjusting the differences which have arisen between Great Britain and Prussia so long as His Prussian Majesty continues to menace the king's Electoral Dominions. As soon as he had explained Himself on this point to the satisfaction of the Hanoverian government and comes to an amicable understanding with them, there will, I trust, be found no serious obstacle to the return of perfect harmony and cordiality between the Courts of Berlin and St. James." Rec'd in Berlin, July 26. (*English Record Office.*) See von Reden's despatch of July 28. (*Han. Archives.*)

ated, that nullified Carysfort's efforts.¹ The second reason for Prussia's hesitancy in giving England any pledges, or entering into any agreement concerning the integrity of Hanover, was the fear that England was seeking to draw her into entanglements that would excite Napoleon's wrath. It was a reasonable fear, and the action of England in its various proposals concerning the evacuation or further occupation of Hanover, bore sometimes the stamp of activity in the Electorate's behalf, with a view to a future English-Prussian *rapprochement* against France.²

With the conclusion of the Russian-English negotiations³ from which Prussia had been excluded, there was a change in the attitude of both Russia and Prussia. The Prussian government was now left with no excuse for continued occupation except to exclude a possible French invasion, a danger which had been hinted at,⁴ but which does not appear in the foreground until all

¹ See his dispatches of June 30, July 8, July 16, August 5, *et al.* (*English Record Office.*)

² Carysfort has the point in mind in his negotiations and proposals. *Cf.* his dispatches of April 8, July 8, July 22, etc. (*English Record Office.*) Haugwitz was fully conscious of this. "... Count Haugwitz dwelt upon the suspicions which hung over all their transactions with Great Britain, that there was always at bottom a design to draw them into open hostilities against France" (Lord Carysfort, July 22, and to same effect, August 5.)

³ The Russian-English treaty was signed in St. Petersburg, June 17, and acceded to by Denmark and Sweden. *Cf.* Martens, *Suppl. au Recueil, etc.*, ii, 476 and 484.

⁴ As early as April 8, Carysfort admitted that the fear of the French was not ungrounded. He again considers it as worth reckoning with (June 30), but no line to him from the British ministry ever considers this danger worth mention other than as a ground for urging Prussia to prepare to oppose France with English co-operation. (*English Record Office.*)

other excuses have failed one by one. Coincident with the disappearance of Prussia's proclaimed grounds for continuing to hold Hanover came greater efforts on behalf of Hanover by the Russian ambassador, Krüdener. It needed but a hint to this strenuous envoy, who had been waiting a chance to prove himself as serviceable to the new régime in St. Petersburg as he had been to the ministry of Paul I. Soon he was fairly outdoing Carysfort.¹ His readiness to present joint notes with Carysfort, and to confer with and advise von Reden, marked not only the stimulated activity of a single diplomat, but the resumption by Russia of her normal policy in North German affairs. The blindness with which Paul had thrown Hanover into Prussia's lap—a gift that not only enriched Prussia immoderately, but greatly endangered the Russian influence in East Frisia, Oldenburg, Meck-

¹Very likely Krüdener was put *en rapport* with the changed attitude in St. Petersburg at the same time that Woronzow in London received the following instructions dated June 10, 1801: "... il serait superflu de rappeler ici les motifs qui déterminèrent mon auguste prédécesseur à remettre l'électorat Hanovre entre les mains de la Prusse. Cette prise de possession devait cependant être momentanée et servir de gage jusqu'à l'arrangement définitif des affaires du Nord. Aujourd'hui qu'elles sont terminées par mon entremise, j'ai fait valoir ce titre pour insister sur l'évacuation du pays de Hanovre, et la réponse que j'attends encore à cette juste demande servira de règle à mes relations ultérieures avec la cour de Berlin." The instructions go on with a rather bombastic statement of Alexander's system. Desiring to maintain the balance in Germany between Austria and Prussia, he has rejected the excessive indemnity demands of Prussia. For the instructions quoted, see *Woronzow Archives*, vol. x, 264 ff. For Woronzow's tart comments on the system they exploit, see same volume, pp. 286 ff. Any investigator whose work touches Russia in the latter part of the eighteenth or earlier part of the nineteenth century will find these *Woronzow Family Archives* a mine of material. For an appreciative summary of their contents, see Brückners review of the thirty volumes in *Hist. Zeit.*, vol. lv, 207-261. On Simon Woronzow, the Russian minister in London, see *Memoirs of Prince Adam Czartoryski*, i, 287-288. (London, 1888.)

lenburg and the Hanseatic cities—was succeeded by the policy of balancing Austria against Prussia while keeping the latter from becoming too powerful in North Germany. The net result of the constant protests and threats of the Regency in Hanover,¹ backed up by the representations of Carysfort for England and Krüdener for Russia, was to make it as hard for the Prussian cabinet to keep Frederick William's troops in Hanover as it had been to get the king to order them sent there. The last vestige of a reason based on obligations to its northern ally² disappeared, when, early in July, Krüdener

¹ Their plans for evacuation and threats to cut off the supplies for the Prussian troops are incessant at this period, with the possible exception of the last three weeks of August and the first part of September. No utterance of theirs ever manifests any fear of the French, or any other view than that it was a Prussian excuse. Their clamorings were stilled in the weeks mentioned by the visit of v. Reden to Hanover to assure them of his own conviction that there was a real danger at that time, that Augereau's troops would move in if Prussia evacuated the Electorate.

² Jacobi in London after handing in an evasive reply to Carysfort's energetic representations on the matter, refrained, as instructed, from further discussion. See his despatches of June 5, 19, 21. July 6, Haugwitz instructs him to plead lack of instructions if von Lenthe wished to discuss the matter. These directions are repeated August 28, 1801. Balan (acting in Jacobi's absence) is told to maintain an absolutely passive conduct and report his observations to the king. See also Haugwitz to Balan, Sept. 4 and October 2. *R. XI, 173, England, Conv., 175, Vol. III. (Berlin Archives.)* Haugwitz told v. Reden in Berlin that he could only discuss the matter with the principal in the case, England. This was the attitude he assumed from the date of the Prussian note of Feb. 12 until the Prussian troops withdrew in Nov., 1801. At the same time that v. Reden and v. Lenthe were passed over because England was the principal in the case (*cf.* Carysfort's dispatch of June 20) Carysfort was informed that Haugwitz could "under no circumstances treat of any matter touching the Maritime League until he had received authentic and direct communication as to the sentiments of its members." Carysfort's protests that the Maritime League, and with it Prussia's excuse for seizing Hanover, had fallen, and that Prussia

was instructed "to express to the King, his Imperial Majesty's wish that the restoration of Hanover may be effected."¹

Whatever hopes of retaining Hanover Haugwitz and his associates had cherished, they must now have perceived difficulties that lay in the way of their realization. The situation was an anxious one, for they had staked their hope on a rich indemnity for the comparatively trivial losses beyond the Rhine. They had chosen wealthy bishoprics in Franconia only to have them put beyond their grasp, while Hanover, an unexpected plum, was placed within their reach. Now that, too, was slipping from them. The king, disgusted with the whole indemnity business, was becoming more unmanageable as England and Russia pressed for at least a declaration of his intentions in continuing the Hanoverian occupation; moreover, Russia was not now likely to forward a plan that called for any indemnity approaching the value of Hanover; the French, long suspicious of a Prussian-English understanding² concerning the continued occu-

was left standing alone in contradiction to all she had hitherto avowed, brought Haugwitz to some cautious inquiries about the king of England's desires in the matter considering the danger from France. (See Carysfort's dispatch of June 23.) The flimsiness of Haugwitz referring to matters of the Maritime League is too evident. The Czar Alexander had already indicated his divergence from the policy of Paul (Martens, *Recueil, Suppl.*, ii, 461), and all three of the northern powers had entered into negotiations, from which Prussia had been excluded by the action of England's representative, Lord St. Helens. It is much more likely that Haugwitz was still awaiting a definite answer to his inquiry of May 18, as to whether Russia would include Hanover in the indemnity fund or England cede it in return for colonial possessions. This assumption is not invalidated by the lapse of time since it was made. It then took dispatches three to four weeks to pass between Berlin and St. Petersburg and return.

¹Carysfort's dispatch, no. 62, of July 8. (*English Record Office.*)

²Bailieu, ii, 44.

pation of Hanover, were growing harder to satisfy and manifesting less likelihood of giving their support to an extensive indemnity for Prussia. Lastly, the renewal of friendly relations with Austria in order to effect a division of the promised spoils had not ended favorably for projects on Hanover. It again appears in the accounts given by the Austrian agent, Count Stadion, that Prussia would have been glad of Hanover above every other recompense, and that Austria wanted Bavaria as badly. But neither power played its game with an open hand. Neither would take the odium of proposing what they both wished, for fear the other might only be drawing them out in order to discredit them in the eyes of the rest of Germany.¹ The crisis in the situation came the first week in August. After several months of feinting and dodging, the Prussian cabinet was brought up with a halt and forced to reveal its hand, to make known its intentions as to Hanover and its plans for an indemnity. To this result several influences contributed.

The English ministry had remained unaffected by Haugwitz's assurances that there was a pressing danger from the French if Prussia should evacuate Hanover.² King George had in no way indicated that he desired a continuation of the occupation, and Frederick William had declared, despite Haugwitz's opposition, that this occupation would cease if the king of England desired

¹ See facts given by A. Beer, *Archiv für österreichische Geschichte*, vol. lii, p. 492 ff, particularly p. 497. It is noticeable that all through June, Prussia keeps Hanover in mind and only by July 20, comes to the definite discussion of another indemnity.

² See Carysfort's despatches of June 23 and 30, and Hawkesbury's instructions to him dated London, July 18. (*English Record Office*.)

it.¹ The English cabinet, though anxious to get a hold on Prussia, rejected the idea of paying her subsidies for continuing an occupation which originated in hostility to Great Britain,² and they made the renewal of English intercourse with Prussia depend on the evacuation of the Electorate.³ Krüdener, on behalf of Russia, though more readily convinced of the French danger, was now conferring daily with Carysfort.⁴ The Austrian negotiations had failed to bring the two German rivals to mutual good will.⁵ The Regency at Hanover had on July 25, declared that the support of the Prussian troops would cease August 21, and Gen. Kleist had threatened to forage if supplies were not forthcoming.⁶ Napoleon, convinced that the Prussian occupation of the mouths of the Elbe, Ems and Weser meant no real hostility to England, was formulating plans which, if executed, would

¹ Carysfort's dispatch of July 16. Haugwitz tried to impress Carysfort with the great interest that George, as king of Great Britain, had in having the occupation continued. Haugwitz declared, "that his own sense of the danger was such that if it depended on him the occupation of the Electorate should be continued even at the risk of the present displeasure of Great Britain; for that he was convinced he should ultimately obtain the thanks of His Britannic Majesty by such a conduct; but that the King, His Master, was determined not to retain possession of the country without His Majesty's express consent."

² Haugwitz had suggested £30,000 a month. (Cf. Carysfort's dispatch of July 16 quoted above.) Carysfort favored it if it would in any way draw Prussia to the English side.

³ Instructions to Carysfort, July 18, 1801.

⁴ He is certainly a very active man in this period, both as a channel between Haugwitz and Carysfort and in co-operating with Carysfort. See Carysfort's despatches of July 25, August 5 and August 8. (*English Record Office*.)

⁵ Cf. article by A. Beer, *Archiv für oesterr. Gesch.*, vol. lii.

⁶ See von Reden's report of July 28, in No. 589 (*Hanover Archives*). Haugwitz and Carysfort had both been to him to urge that support of troops be continued. Haugwitz called it a case of "periculum in mora."

only increase Prussia's embarrassment. Not even the neutrality system, which had gathered the minor powers of North Germany around her, remained to conceal the weakness of her position.¹ She stood practically alone in Europe.

August 8, 1801, marks the turning point in the history of the complications of this year. First, Prussia, after much wavering, declared its intentions as to Hanover in most unequivocal language, though refusing to enter into any written agreement with Great Britain as to the further occupation necessitated by the French danger. King Frederick William let it be known that "he abhorred the thought of usurping King George's Electoral Dominions upon any pretext whatever," and that "his certain knowledge of the French intention to invade the Electorate when the Prussians should be withdrawn was the sole reason of his ordering them to remain." Second, it removed the chief reason for doubting the sincerity of its good intentions in Hanover by specifying at the Diet in Regensburg the indemnity it desired.² Third, it was successful in convincing von Reden, the Hanoverian envoy, that the danger from France was so pressing that he should take advantage of the permission the Regency gave him, proceed to Hanover, and lay the necessity of continued occupation before the King-Elector's advisers. Lastly, on the day which the despatches of von Reden and Carysfort mark as revealing Prussia's purposes, Talleyrand, speaking for the First Consul, despatched the draft of a convention with Prussia

¹ Lucchesini, *Hist. of the Confederation of the Rhine*. From the Italian, by J. D. Dwyer (London, 1821). See pp. 110-111 for comment's on Prussia's forfeiture of the confidence of the minor states as a result of the occupation.

² Carysfort's dispatch of August 8, 1801.

which called for the remission into French hands of the electorate of Hanover.¹

The details of the four important considerations thus conjoined can only be sketched. The declaration of King Frederick William's good intentions towards Hanover was produced by the combined Hanoverian-English pressure. The situation late in July had become so critical that Haugwitz indicated through Baron Krüdener, the Russian ambassador, that, in order to satisfy the Regency which had refused further supplies, he would be willing to enter into special engagements to defend the Electorate and to withdraw when King George should request it.² Hopeful of having at last attained his double object of securing Hanover's safety and establishing an English-Prussian understanding, Carysfort drafted a series of four articles in accordance with what Baron Krüdener said Haugwitz would be willing to accept. But Haugwitz had gone farther than his royal master would follow. Frederick William stood on his dignity and refused any written guarantee, holding that his word freely pledged to Prince Adolphus and confirmed by his ministry's assurances of good intentions must suffice.³ Though convinced that there was a real danger from the French, Carysfort felt that the failure of his treaty proposals gave him no excuse for ceasing to obey the instructions laid down by the English ministry. Instead of helping Haugwitz placate von Reden and the Hanoverian Regency, Carysfort insisted with them that the

¹ Bailleu, ii, 52.

² Carysfort's dispatch of July 25, 1801.

³ I feel that this reason offered by Haugwitz is worth more credence than Carysfort gave it. Undoubtedly both king and Cabinet feared that England would use any agreement to embroil Prussia with France.

Electorate should be evacuated.¹ Most uncomfortable of all, he had at his command the services of the Russian minister. The longer Prussia delayed revealing her intentions, the greater was the distrust of these three powers, and the more insistent their demands. August 8, the dispatches of von Reden and Carysfort show Prussia's concerted effort to get into shape to face the danger from France. Baron Jacobi, then in Berlin on leave of absence, went to both Carysfort and von Reden,² and assured them in the king's name that the king had but one purpose, and that was to hold Hanover for its own good and restore it when the danger was past. These assurances the king repeated in person to Carysfort.³ At the same time Baron Krüdener, probably at Haugwitz's suggestion, showed the English ambassador all the correspondence between St. Petersburg and Berlin on the matter of Hanover. This confidence furnished to Carysfort further proof of the steadiness with which

¹ Carysfort's dispatch of August 5.

² See their despatches of this date. V. Reden's is in No. 587 (*Han. Archives*). The plan had been to send Jacobi or Alvensleben to Hanover but this was abandoned for fear of exciting the French. V. Reden, as above. Jacobi told Carysfort that King Frederick William was so convinced of the danger from France that he desired only that his troops might be supported. Further than that, "he made no conditions whatever and particularly as to the questions of Maritime law and commerce upon which objects he should make no propositions to his Majesty . . ." Compare this with Beurnonville's report of August 24. Bailieu, ii, 55 *et seq.*

³ His Majesty had concluded in these words: "J'espère, Monsieur, que vous êtes content de ce que Je vous ai fait dire pars [sic] le Baron de Jacobi, et que sa Majesté Britannique croira au vrai désir que J'ai de cultiver l'amitié et la bonne Intelligence avec elle. Dans les circonstances où nous sommes il faut agir avec circonspection, et si Sa Majesté trouve à propos, Je pense que nous ferons bien de rester encore quelque peu de Tems dans le Hanovre." Carysfort, Aug. 8, 1801 (*English Record Office*).

King Frederick William had asserted fair purposes as the basis of his conduct.¹ Von Reden was attacked as skillfully. Lützow, the minister of Oldenburg, who had served as a go-between for England and Russia in March, wrote in behalf of the Czar and Lord St. Helens an assurance of Prussia's good intentions and France's evil designs. Other good friends of Hanover, such as the Bishop of Lübeck, and the Dukes of Holstein and Mecklenburg-Schwerin, represented the fear of Augereau's army as well-grounded.² Hanover would be inevitably lost if the support of the Prussian troops ceased. Haugwitz, Krüdener and Carysfort all urged that von Reden should go to Hanover and lay before the Regency the many considerations that necessitated a continuance of the supplies for the army.³ As a final stroke, the man whose uncertain diplomacy had engendered the distrust that was now hampering every move he might hope to make, put himself on record as agreeing with all that his royal master had promised. The faithful old Deluc, whom Haugwitz had used for the last four years as a confidant and messenger in matters between England and Prussia, was summoned to Charlottenburg. There Haugwitz talked over with him the whole subject of Prussian policy towards France and England, and allowed Deluc to make a minute of the conversation, which,

¹ Carysfort, Aug. 8, 1801. There are two despatches on this date with numerous enclosures.

² V. Reden's dispatch of Aug. 3, 1801 [*no. 587*] and August 8(?). Von Reden encloses an unsigned letter from Charlottenburg dated Aug. 7, and written by the king's authority. It deals with the serious situation created by the Hanoverian refusal to support Prussian troops after Aug. 21. Hanover will inevitably be lost if the Prussians withdraw. It announced that von Alvensleben will be sent to Hanover to treat with the Regency. (*Hanover Archives, no. 589.*)

³ V. Reden, Aug. 8 (*sup. cit.*)

after Haugwitz had corrected it, Deluc transmitted to Carysfort.¹ The concerted effort was successful. Von Reden was able now to satisfy the Regency that they should support the occupation yet a while longer. The English and Russian ministers might at least be expected to grant the Prussian monarch a respite while he faced the difficulty Napoleon's plans were preparing for him.

The French had applauded the occupation of the Electorate,² only to be disappointed in all the results

¹ In this conversation Haugwitz, after referring to the very candid and friendly way in which the two men had always discussed matters, asks Deluc's testimony as follows: "... m'avez-vous jamais vu varier un instant sur ces points fondamentales: 1. Nulle relation plus intime avec les françois que celle de la paix où nous sommes avec eux et qu'il convient à la Prusse de maintenir, si elle le peut avec honneur et sûreté. 2. Relations au contraire très intimes avec l'Angleterre, tant à cause de ses principes que par un intérêt commun évident et par les liaisons de parenté et d'amitié. 3. Défense par la Prusse, à tout prix du Nord d'Allemagne et en particulier de la côte de la Mer du Nord compris [sic] les embouchures des rivières depuis l'Ems, moyennant s'il faut des efforts extraordinaires à la part de la Prusse, secours de finance à la part d'Angleterre, vu son intérêt sur cette côte. Vous savez que plusieurs [fois] j'aurais désiré vous d'aller plus loin et que je l'ai tenté; mais que sur ces points je n'ai jamais varié, et que si je ne n'avois pas cru pouvoir les maintenir, je ne serais pas resté dans le ministère. Voici l'époque où cela devient d'une grande importance, pensez-vous qu'après avoir constamment soutenu ce système je puisse en changer? et que si je n'étais pas sûr qu'il sera soutenu ici je-voulusse en donner l'assurance?" Haugwitz then goes on to urge that there is no necessity of a written agreement between Prussia and England, the parole of the respective ministers being sufficient "... et que tout ce qui serait convenu et déterminé de cette manière seroit regardée comme engagement formel à la part de Sa Majesté britannique par la bouche de My Ld. Carysfort." This would seem to indicate that there had been no exchange of assurances between the two sovereigns since the king of Prussia's letter to Prince Adolphus. It is to that letter that the king and Haugwitz refer later in the same report of Deluc, as a basis for the confidence which they expect from England.

² Napoleon spoke of it as an act worthy the successor of the great Frederick. Lucchesini (undated), in *R. XI, 89 Frankreich, Lucchesini*,

flowing from it. English commerce went on undisturbed by the Prussian troops at the mouths of the Elbe, Weser and Ems.¹ The flimsiness of the Maritime League and the pseudo-hostility against a power whose representative never left Berlin, could not but have been plain to Napoleon. Suspicion that Prussia was playing a double game in its attitude toward England² was con-

1801, Vol. II. (Berlin Archives). May 12, v. Reden reports that Duroc thanked King Frederick William III. in behalf of Napoleon for the occupation, but the king abruptly broke off the conversation. (*No. 589, Hanover Archives*).

¹ There are several assurances to Lusi that nothing is being done to interfere with English commerce.

In the volumes marked *Rep. XI, 140 C. 1*, is a copy of an order to the Prussian generals to let all commerce go on undisturbed and to treat with consideration English war ships that may be wrecked on the coast but to report such cases that orders shaped with a view to political circumstances may be issued. They are warned to strictest secrecy as to these orders. They are enclosed with a communication of Col. Zastrow's dated April 23, 1801. The instability of the Maritime League is evident when one considers the character of its founder, the unwillingness with which Sweden and Denmark were brought into it, the variant view Prussia had of her duties as a member and her general disinclination to serve Russia's and France's plans on Malta. The whole Napoleonic hope, of making commerce manoeuvre like a regiment in 1801, and later in the Continental system, is nowhere more keenly criticized than in the despatch of Lord Minto from Vienna, March 1, 1801 (*English Record Office*), commenting on the Maritime League: "... the attempt to seclude one of the greatest and most extensive Empires on the Globe, I mean that of His Majesty from the fellowship and even acquaintance of Europe will be found one of those idle and chimerical projects which are conceived by Vanity during the intoxication of Success and will prove as impossible to be realized as it is unfit to be so. The mutual wants of nations will break these unnatural and momentary fetters. The trade of England and the necessities of the Continent will find each other out in defiance of prohibitions and in spite of Fleets, Armies and Confederacies. Not one of these Confederates, whether voluntary or compelled, whether Principals or accessories will be true to the Gang and I have very little doubt of our trade penetrating into France herself and thriving at Paris."

² Lucchesini, May 25, 1801. Bailleu, ii, 44-45.

firmed by the conditions under which Prussia had said she would accept Hanover as her indemnity.¹ August 17, the demand already referred to,² that Hanover should be turned over to France, was presented in Berlin by Beurnonville.³ Weak as was Prussia from the military point of view, Haugwitz preferred to risk the results of Napoleon's anger rather than embroil himself with England, Russia and Austria by such a disloyal act.⁴ Haugwitz, of whom an arch-enemy said that as a school-boy he had acquired the habit of lying so that he had never been cured,⁵ blandly pointed out to Beurnonville that Prussia, which still firmly adhered to the principles of the Maritime League,⁶ must have some pledge by which to guarantee its commerce against English excesses. *Other plausible excuses were added, but they did not conceal the fact that the last of the Northern powers which six months before were in seeming co-operation with Napoleon's plan had decidedly withdrawn itself from French domination.⁷

¹ Instructions to Lucchesini, July 10. In Bailleu, ii, 50-51.

² Printed in Bailleu, ii, 52.

³ Haugwitz tells Carysfort, reported in C.'s dispatch of Aug. 27 and von Reden's of Sept. 3 (*Han. Archives*), Lucchesini's despatch of Sept. 9, 1801, suggests as an explanation of Napoleon's desire to get hold of Hanover (1) the need of contributions in view of the exhaustion of Italy, the resistance of Holland and Switzerland and his arrears in paying French troops; (2) the loss of Egypt, the dissolution of the Maritime League and the failure of the plan to invade England left this the only mode of reaching England and forcing her to peace. Bailleu, ii, pp. 58-59.

⁴ Memoir of Haugwitz, dated Aug. 21. Bailleu, ii, 53.

⁵ Simon Woronzow. Cf. *Das Archiv des Fürsten Woronzow* (Moscow, 1870-1884), vol. x, p. 190. Cf., also, p. 178.

⁶ See Carysfort, Aug. 8, *Despatch no. 71*.

⁷ Beurnonville to Talleyrand, Aug. 24. Bailleu, ii, 55-57. Haugwitz expected Napoleon to proceed to war measures as a result of Prussia's refusal. See Deluc's report of interview with Haugwitz enclosed with Carysfort's dispatch, no. 73, August 8, 1801. (*English Record Office*.)

The successful issue of the French-English negotiations in London brought to an end this complication of Hanoverian-Prussian interests.¹ October 1, 1801, M. Otto signed in behalf of France the preliminaries of a truce, whose terms were fixed at Amiens the following year. After waiting a short time, in order that the

¹This is passing over two months during which the suspicions and bickerings due to the continued occupation and the support of the troops continue between the Regency and von Dohm. England again rejected any idea of subsidy when Prussia refused to bind herself by any sort of written agreement. (Instructions to Carysfort, Sept. 22.) Carysfort supported the Hanoverian demands that the burden of expense be lightened. See Carysfort's and von Dohm's dispatches during Sept. and Oct., in *English Record Office* and *Hanover Archives* respectively. Napoleon did not cease his urging that Hanover be turned over to him.

See P. S. to Carysfort's despatch of Sept. 22, 1801. In December, Talleyrand had another scheme for including it in the indemnity fund assigned to Prussia. Then Prussia, by an exchange of Hanover for Mecklenburg, was to be removed from proximity to the French in the lower Rhine region. *Cf.* Bailleu, ii, 63. Austria and Russia kept up their interest in the fate of Hanover, as is attested by their agreement on the outline of a plan for indemnity proposed by Russia and approved by Austria. The part of the note referring to Hanover reads: "Tertio, Fixer d'après le même principe le lot de la Prusse sans qu'elle puisse en aucun Cas obtenir comme dédommagement l'Electorat d'Hannovre le danger d'une semblable possession entre les mains du Roi de Prusse est aisé à sentir. Ce seroit attenter de la manière la plus arbitraire à l'expence de la Constitution Germanique, en s'emparant de toute une Souveraineté qui en fait une partie intégrante, outre que la richesse effective et ses moyens de puissances réels et relatifs ne sont en aucun proportion avec les pertes de la Cour de Berlin. Ce seroit rester en guerre avec une grande Puissance dont le concours peut influer sur les négociations des Puissances continentales."

See von Reden's dispatch, October 27, no. 589 (*Hanover*). Despatches of October 1 and 13, referred to as important in this connection, were not found. On October 16, Carysfort was instructed to bring the Prussians to action by concerting with Baron Krüdener a joint official note demanding, in the name of the Czar and of the king of Great Britain, the evacuation of Hanover. This was never done, as the action of Prussia rendered it unnecessary. *Cf.* Casamajor's dispatch, no. 1, October 28, 1801. (*Eng. Rec. Off.*)

French might not be strengthened in their suspicion that the occupation was due to an English-Prussian agreement, the Prussian troops were withdrawn from the Electorate (Nov. 6), and amid indescribable public rejoicing the Hanoverian troops returned to occupy their posts.¹ After seven months of nominal suspension the Regency took up its normal functions and the connection with the minister and king in London was officially resumed.

As an international episode the Prussian occupation of Hanover was ended with the parting exchange of civilities between General Kleist and the Regency, but its effects survived in the relations between the states they represented. If the treaty of Lunéville had not ended all reason for continuing the Neutrality System, the Prussian occupation at least, had made it impossible. The confidence of the smaller states was weakened,² Hanover was embittered, suspicious³ and burdened with

¹*Hamburg Staats, und Gelehrte, Zeitung*, Dec. 4, 1801.

²Lucchesini, *Hist. of the Confederation of the Rhine*, p. 110.

³It has been pointed out that frequently, after the English-Prussian reconciliation, Haugwitz declared that the evacuation of Hanover would take place if the King of England desired it. Now unless Deluc was made the medium of communication between George III. and Frederick William III., without the knowledge of either the English and Hanoverian ministers, the king of Prussia on the basis of what the envoys of both governments of the king of England presented, could have had no doubt that George III. desired the evacuation. From the date of von Lenthe's note of June 17, *Des. XI, no. 70*, when directly and in the strongest language he demanded the evacuation in the king's name, until November, von Reden and Carysfort were acting under instructions to secure the evacuation at the earliest possible moment, or some guarantee of the Electorate's independence if it were to continue. But once in that whole period (August) do they relax their efforts, and that is when they are personally convinced of the danger from France if Prussia withdraws. By September 1, both are again active along the lines laid down by their instructions. Neither government, certainly

debt.¹ The Hanoverian contingent had been furloughed, so that with the withdrawal of the Prussian troops the Observation Army was practically dissolved. The Electorate had again been the victim of its connection with England, and the provincial estates were not slow in showing their discontent and the particularistic spirit which was too often substituted by them for patriotism.² Most serious of all, Prussia had discovered her weakness to the world.³ The fact that a Prussian occupation of Hanover had maintained the neutrality of the Electorate

not the English, ever betrays by its instructions the least belief in the French danger. Haugwitz writing later of this period says he knows from the worthy Deluc, the confidant of the king and queen of England, that they were very thankful that Prussia had taken Hanover under its protection. But such sentiments, if ever expressed by King George, can in no way be interpreted as an approval of the continued Prussian occupation. Ranke, *Works*, vol. 47, p. 292. Of this use of Deluc as a private messenger of George III.'s, neither the *English Record Office* nor the king's correspondence in the *British Museum* (MSS. Dept.) show any trace.

¹The occupation cost Hanover about 180,000 rixdalers per month from May to September inclusive. To this should be added the cost of 13,000 troops quartered in private families at 6 gros. per month. See v. Münster's memorial of Dec. 16/4, 1801, in *Cal. Br. Des.* 24. *Russia* 127 (*Hanover*).

²Certain provinces voted supplies only after they had learned what the others had done. Celle and Lüneburg refused to continue "weil die Besitznahme der Kurlande eine bloss England betreffende Differenz zum Grunde habe und von Seiten hiesiger Lande als eine Personal-Sache des allerhöchsten Landesherrn anzusehen sei; mithin billiger Weise keine Hannoveraner, ein Beytrag abgefordert dürfe." Bremen and Verden advanced their share of the amount demanded by the Prussians as a loan. Hoya protested but borrowed enough to meet its assigned share. Cf. *National Zeitung der Deutschen*, June 4, 1801.

³It is well to remind the reader, however, that the period just sketched is the best possible example "der Politik des Durchwindens." Haugwitz looked back on it with pride when he thought that amid all the difficulties he had yet been successful in securing Prussia an ample indemnity. Ranke, *Works*, vol. 47, 292.

by saving it from a French invasion, was not the impression that had been made on the Europe of 1801. Diplomats talked openly of other motives not so honorable; they saw Prussia as the tool of Russia and France laying hands on the supporting column of its own policy since the treaty of Basel.¹ After having advertised to the world for six years that Hanover ought not to be treated as an English continental possession, Prussia had been compelled to occupy the Electorate because Paul I. and Napoleon wished to punish England. She had continued that occupation long after the circumstances producing it had ceased to exist. Prussia had meanwhile solicited a large indemnity at the hands of the powers whose mandates it had obeyed. These are the facts as the Europe of that day saw them, and Prussia, her king and his ministers were judged accordingly. No wonder that the whole matter had left in the mind of the Prussian king a pronounced aversion to further interference in Hanoverian affairs. Conscious of his own good intentions, and ever holding in mind the pledges he had made to Prince Adolphus, he experienced the deepest chagrin at seeing his motives aspersed. It was with tears in his eyes that he consented to the occupation, but the deepest humiliation had come when he found that Austria, England and Hanover itself regarded his self-sacrificing act as the result of an insatiable greed for territory.

¹Carysfort among others, pointed this out to Haugwitz. See his despatch of July 8. King Frederick William in 1803 admitted that his occupation in 1801 had furnished the French with the precedent they needed to excuse their own occupation of Hanover. Ballieu, ii, 160, 161. Hardenberg's words (*Denkwürdigkeiten*, ii, 13) in referring, evidently, to the events of a later period, are even more true of 1801: "Wir zerstörten bei der ersten Anforderung unser eignes mit so viel Mühe und Kosten aufgerichtetes Werk und mit ihm fiel das ganze schöne System."

But here we are suggesting a line of thought that leads to the serious events of 1803, when all the powers whom we have seen so active in Hanover's behalf stood by in irresolution or indifference, while Napoleon drew the timid and wavering Electorate into his net. We may, then, properly view the Prussian occupation of 1801, as the prelude to the French occupation of June, 1803, which itself brought such disaster upon Europe. It is in the story of this final catastrophe that the account of Hanoverian-Prussian relations between 1795 and 1803 will find its fitting conclusion.

CHAPTER VIII—APPENDIX A

Haugwitz's memoirs published in *Bran's Minerva*, 1837, and separately as *Fragment des Memoirs du Comte Haugwitz*, contains the following account of the occupation of 1801. The extract below includes pp. 55-57:

“Voici le fait, tel qu'il peut être garanti aujourd'hui encore par les personnes les plus respectables. Le Prince Adolphe d'Angleterre et le Duc de Bronsvic se trouvaient à Potsdam; le Cte Haugwitz y fut, lorsqu'un matin le Baron Krüdener, ministre de la Russie, s'annonce chez lui à l'aube du jour.

“Pardon, dit-il, en entrant chez le Ministre, je n'ignore pas que j'agis contre l'étiquette établie en me présentant à vous pendant que le Roi est en retraite; mais soyez mon juge. Il lui communiqua alors une lettre autographe de l'Empéreur Paul. Elle contenait une proposition des plus pressantes, pour engager la Prusse à occuper le pays d'Hanovre et même sans le moindre délai. Paul déclara qu'il était prêt à lui en garantir la possession. Le courrier qui devait apporter la réponse, déciderait des mesures, auxquelles la Russie et la France réunies se porteraient, pour disposer des possessions allemandes du Roi d'Angleterre.

“Le Cte de Haugwitz logeait à l'auberge. Se trouvant sur un pied de confiance avec M. de Krüdener, il lui montra les deux portes opposées de son salon. Vous êtes plus près que vous ne pensez Mr. l'envoyé, pour traiter vous même l'objet qui vous amène. Voici la porte qui conduit à l'appartement de S. A. R. le prince Adolphe d'Angleterre et cette autre est l'entrée de celui de Duc de Bronsvic. Choisissez! C'était bon pour la plaisanterie mais le cas était grave et le ministre se rendit sur le champ chez le Roi. On consulta, et après avoir informé les deux Princes dont on vient de parler, de la proposition faite par l'Empéreur Paul il fut décidé, que les troupes sous les ordres du Duc de Bronsvic, iraient prendre possession du pays d'Hanovre. Cet acte fut précédé et accompagné de procédés, qui ont été de leur tems appréciés par l'auguste chef de la maison d'Hanovre et par toutes les personnes de sa famille, qui ont été dans le cas d'en connaître les circonstances.

“ Le Cte de Haugwitz, peu sensible aux diatribes que lançaient contre lui les gazettiers de Londres, l'était d'autant moins qu'il avait près de lui un sûr garant des sentiments personnels de L. L. M. M. Britanniques, une circonstance qui n'a plus besoin d'être voilée dans le morning cronicle. La voici :

“ Peu après l'avènement au trône du Roi de Prusse actuellement regnant, s'annonça chez le Comte Haugwitz M. DeLuc, lecteur de la Reine d'Angleterre. Il était porteur d'une lettre de la Reine pour sa nièce la Reine de Prusse et d'une autre de Lord Grenville pour le Ministre. Le but de cette mission entretenue pendant près de dix ans fut de nourrir les relations intimes personnelles entre ces augustes personnages par les moyens d'une personne qu'elles honoraient de leur estime et de leur confiance.

“ En se servant pour cet effet [de] M. DeLuc (voyez la correspondance avec le Duc de Bronsvic) on n'aurait pu faire un meilleur choix. Une dispute littéraire qu'il entretenait tout exprès avec quelques hommes de lettres à Berlin, pour couvrir sa mission le consolait en même tems quand, comme il aimait à s'exprimer, les affaires n'aboutissaient pas à leur fin. On conçoit sans peine que ce fut par son vénérable ami que Haugwitz transmit à leur L. L. M. M. Britanniques l'avis et les circonstances, qui allaient accompagner l'occupation de leur patrimoine. Du reste on avait su rendre en général cette démarche qui ne pouvait que causer de la peine aux Princes de la Maison de Bronsvic, aussi peu acerbe, en autant au moins que les circonstances le permettaient.

“ Mais Haugwitz avait fourni à des gazettiers de Londres, qui à tort peut-être se nommaient ministériels, un autre motif pour s'acharner contre ce qu'ils appellaient sa politique.”

Since his entry into the ministry, Haugwitz says he had supported the principles of the Armed Neutrality “ Mais dès ce moment John Bull ne tenait plus de mesure.” The English accused Haugwitz of venality “ ou telle autre gentillesse semblable.”

CHAPTER IX

THE FRENCH OCCUPATION OF HANOVER IN 1803

IT is seldom that any great national policy is blocked out and developed along lines and toward ends clearly realized from the beginning. World politics have given us but few Richelieus. The history of the programs of cabinets and rulers through any period of time, is an account of the growth of certain germ ideas distinctly modified, sometimes transformed, by circumstances. In a large degree this is true of that Prussian policy we have called the Neutrality System. Unable through the inefficiency of its financial system to realize on its resources, the Prussian state was brought by the expenditures of the Seven Years War of Frederick William II., (1787-95) to the verge of bankruptcy. The necessity of protecting its interests in Poland had further inclined it toward that conciliation with France in the Rhine region which the withdrawal of English subsidies made almost unavoidable. The idea of standing forth as the peace-maker if not of Europe, at least of the Empire, had, like a will-o-the-wisp, led the Prussian king to abandon his crusade and to make peace with the regicides on the Seine. The tentatives of Basel failing, the exigencies of securing neutrality and assured position in at least its own neighborhood, had led Prussia to the treaty of August 5, 1796, which, while it recognized her hegemony in North Germany, drew her farther along the road of territorial

development through indemnification.¹ But as the security of her neutrality towards the East and the West depended on Russia and France respectively, so in seeking further her own interests amid the dissolution of the old Empire, she found herself obliged to court the favor of France and Russia in order to get the large indemnity she sought. This combination of fear and favor-seeking had drawn her into a maritime union with Russia from which she was freed only after she had been forced unexpectedly into measures hostile to the province whose hearty co-operation meant so much for Prussian leadership. Obligated by the change of circumstances to stifle whatever hopes of territorial gain the temporary occupation of Hanover may have aroused, Prussia was inevitably drawn in 1802 more and more toward the power which was dispensing German bishoprics to the hungry horde of German princes gathered at Paris.²

¹ Prof. Seeley, in his *Life and Times of Stein*, pt. 2, chap. iv, gives a review of the period of neutrality and of the effects of the French occupation of Hanover in 1803. For the views of the chief exponent of the system, the reader is again referred to Haugwitz's exposé published by Ranke in his *Complete Works*, vol. xlvii, p. 303 ff. After mentioning some of the advantages and disadvantages of neutrality, Haugwitz says: "Les liens qui réunissaient la Saxe, le Hanovre, la Hesse et les autres princes dont les états se trouvaient à l'abri de la ligne de démarcation se basaient sur le sûreté et l'intérêt commun. Revenu de ces fausses idées dont autrefois on avait farci les têtes, de ces idées extravagantes, prétendue dignité et de gloire, l'aigle prussien couvrait de ses ailes ses états voisins sans charger le sien du poids de ses efforts. Ce fut alors qu'il remplissait sa haute destinée."

² After making due allowance for his point of view, there still remains a great deal of truth in the despatches of Mr. Jackson, the English ambassador, in which he points out how Prussia's weakness in 1801 and desire for indemnity in 1802 had brought her under French dominance. See, *e. g.*, despatch of Mr. Jackson, Nov. 26, 1802, and his private letter to Lord Hawkesbury, Nov. 25, 1802 (*English Record Office*), for pictures of Prussia's humiliation.

Of all the German powers seeking recompense for their losses in the French appropriation of the left bank of the Rhine, none sought that indemnity more singly at French hands than Prussia.¹ While desiring to placate Russia,² it was with France that they settled their account and received by the treaty of May 23, 1802, a rich return for their lost provinces. With exultant joy the Prussian king, cabinet and public hailed the diplomacy of Lucchesini,³ their envoy in Paris, whose successful negotiations had given them the ecclesiastical states of Hildesheim and Quedlinburg and the cities of Nordhausen, Mühlhausen and Goslar in Lower Saxony and in Westphalia, besides several municipalities, and the greater part of Münster and Paderborn.⁴

There was, however, a reverse side to this successful activity of Prussia during the years 1800-1802 when Europe was, for the first time during a decade, enjoying a brief period of general peace; and that reverse side was turned toward the second member of the two powers whose relations we are following. The bitterness and suspicion aroused by the Prussian occupation of 1801 was increased in Hanover by the success of the Prussians in securing Hildesheim as part of their indemnity; for Hanover, though it had not lost an acre or a shadow of a claim to territory on the further bank of the

¹ Instructions from Berlin to Lucchesini in Paris, Nov. 16, 1801. Bailleu, ii, 61. Beurnonville to Napoleon, Jan. 19, 1802. Bailleu, ii, 72-73. On the failure of the Prussian-Austrian indemnity negotiations, see A. Beer, in *Archiv für österr. Gesch.*, vol. lii, 475 ff.

² Lombard to Lucchesini, March 5, 1802. Bailleu, ii, 76.

³ Bailleu, ii, 100-101, 103.

⁴ Cf. copy of treaty in DeClerq, i, 583-587, or the summary in Beer's article, *sup. cit.*, 516.

Rhine,¹ had resolved to grab while France and Russia were holding the bag open. The prizes they sought were, in part, the same principalities that Prussia had selected, namely, Hildesheim and Osnabrück, the latter a bishopric in which the Hanoverian-Brunswick line already exercised, in alternation with the cathedral chapter, the right to select the ruling bishop; thus the Elector and Regency were inclined to regard Osnabrück as practically a Hanoverian possession. That all the Hanoverian plans for territorial increase and their efforts at Regensburg, Berlin and St. Petersburg came to naught, is to be attributed to the success of Prussia in gaining Napoleon for its plans. How extensive those plans were, the Hanoverians could only guess, but there was small comfort in surmises based on the fact that Hildesheim, while it did not round out Prussian territory, did bring Prussia within a few miles of the Electorate's capital. Thus advantageously situated, Prussia could hopefully await any opportunity to increase still further its dominance over its neighbor.²

It would scarce profit us in the present discussion to attempt to summarize the ins and outs of the subject of indemnity through secularization as it is revealed in the archival material in Hanover, London and Berlin. A drearier subject, and one more unrefreshing in all its

¹ Mr. Garlike, the English chargé-d'affaires in Berlin, gives in his no. 13, March 8, 1802, a complete table of the estimated losses in square miles, inhabitants and revenue of 36 temporal powers of the empire, 13 ecclesiastical princes and 4 immediate seigneuries. (*English Record Office.*)

² Cf. v. Lenthe's defense in *Zeit. des hist. Vereins für Niedersachsen*, 1856, 159. More emphatic are the memorials of Capt. Decken, Jan. 26, and of the Regency (Rudloff), March 16, 1803. *Hanover Archives, Des. 9, Hildesheim, no. 162.* That this was Haugwitz's intention is shown by his memorial of Feb. 20, 1801. See Bailleu, ii, 27.

endless details, could hardly be conceived.¹ Hanover, supported by Saxony, at first sought to maintain the Empire under its old constitution and with the old territorial decentralization, but as the scheme of indemnity, in some form or other, became inevitable, the Hanoverian government entered the struggle for plunder.² From the first it saw in Prussia its natural rival in the areas the Regency sought to acquire.³ Not only that, but, as we have seen, the suspicion that the Electorate itself might be drawn into Prussia's net was fully voiced at Hanover and in London.⁴

The Regency, in order to avoid arousing any suspicions in France, had hastened to approve the treaty concluded at Lunéville by the Emperor in the name of the Empire.⁵ But their efforts to have the indemnities which had been approved in that treaty settled by the Imperial Diet in Regensburg were vain.⁶ And as they

¹Havemann, *Gesch. Hanover*, vol. iii, gives a brief summary of Hanover's interests.

²See King George's *note verbale* of May, 1797, in *Cal. Br. Des.* II, E. I, no. 1128. In no. 1183 (see below) is an interesting letter from King George (v. Lenthe), Jan. 15, 1802, acknowledging that he has no interest in preserving the archbishoprics of Trier, Mainz and Cologne.

³See Regency to Wallmoden, as early as April 19, 1795.

⁴Their suspicions were active after April, 1797, when they learned the secret provisions of the treaty of Aug. 5, 1796. Von Reden gave these suspicions frequent expression in 1801. See, for example, his despatch of Aug. 8, 1801, in no. 1183. When convinced that King Frederick William III. had no intentions on Hanover, he hoped that nothing "den hiesigen raubgierigen Rathgebern Gelegenheit geben möge Veränderungen in diesem System hervorzubringen." During the struggle for Hildesheim, Prussia, in replying to Hanover's claims, handed in a memoire at St. Petersburg, saying that on the same basis Prussia could lay claim to Hanover. This was not forgotten in the crisis of 1803. Ompteda to the Regency, May 31, 1803, no. 600 (*Hanover*).

⁵Regency to king, March 8, 1801. *Cal. Br. Des.* XI, E. I, No. 1182.

⁶See, e. g., Regency to King George, March 26, 1801. *Cal. Br. Des.*

were not allowed by King George to send a representative to Paris, the Regency sought to gain Russia for their plans. Fortunately Hanover had at St. Petersburg an able representative, Count Münster,¹ who had been there since the coronation of Alexander I.² If St. Petersburg, rather than Paris, had been the clearing house in which indemnity claims were equated, Münster, with his able memoirs and protests, might have hoped to effect something against Prussia's intentions on Hildesheim.³ As it was, no hand was raised to prevent the execution of the French-Prussian treaty of May 23, 1802, and the Prussian troops with General Schulenburg-Kehnert at their head occupied, during the summer of 1802, the provinces and municipalities assigned to Prussia. Hanover, with no definite support for its plans,⁴

XI, E. I, no. 1183. The action taken in Regensburg was strikingly like the instructions sent von Ompteda. *Cf.* Regency to king, May 14, 1801, *no. 1183.*

¹On Münster see article by Ulmann in *Hist. Zeit.*, 1868. Both Ulmann and the article in the *Allg. Deutsche Biog.* pass over Münster's career before 1809 too lightly.

²On Münster's mission in St. Petersburg from Dec. 1, 1801, to 1804, see *Hannover, Des. 91, no. 6; Cal. Br. Des. 24, Russia, 127 and 131a, and no. 1183 sup. cit.*, and material cited below. The real object of his mission was this subject of securing Hildesheim.

³King George wrote a personal letter to the Czar. See von Lenthe's despatch of Oct. 12, 1801, and the outline of Russia's answer in Münster's despatch of Dec. 22/10, 1801, in *no. 1183.* This despatch as well as others shows Russia's desire to curb Prussia's demands and see, "dass endlich das System von Unterdrückung und Beraubung kleiner Staate ein Ende nehme."

⁴Count Münster writes February 15/3, 1802: "Wass kann man von Russland fordern wenn dieses sieht, dass das Englische Ministerium sich nicht für den König interessiren will?" *Hannover, Des. 92, no. V. Bd. 2.* Conditions in St. Petersburg and at the court are sketched in an interesting letter of Münster's April 2/March 21, 1802, in this package. V. Lenthe attempted some correspondence with the French government but received no encouragement. See his letters of May 20 and June 29, 1802.

had to content itself with acquiring the bishopric of Osnabrück¹ which they vainly sought to exchange for the bishopric of Hildesheim.² With extreme blindness to matters really important, the Regency engaged in these tiresome and petty affairs while a storm was gathering, even breaking over their defenceless heads—we mean the French occupation of 1803, “an event whose significance is not the result of a passing interest of a momentary or local character, but is an event closely connected with the great occurrences of that time, and forms in more than one regard, a turning point” in the events that lead to the catastrophe of 1806 and the fall of the Napoleonic Empire.³

While Germany was thus being re-arranged for the benefit of the stronger states, England and France were hurrying on toward the outbreak of that great struggle which ended only at Waterloo. The treaty of Amiens (March 25, 1802) had given both a breathing spell, but nothing more. Of the points left undecided in the treaty, the possession of the island of Malta was the most irritating. England refused to withdraw from the island despite Napoleon's demands, and replied to his reproaches by pointing to French aggression in Italy and Switzerland.⁴ The inevitable drew on. Each power saw the breach coming and sought by elaborate proposals and counterproposals to brand the other as the

¹In March, 1800, Hanoverian troops occupied Hildesheim, but the arrangements after the treaty of Lunéville made its retention impossible. See Hassell, *Das Kurfürstenthum Hannover*, p. 28.

²Hassell, *sup. cit.*, 51 ff.

³See these views in Häusser's essay: *Zur Geschichte des Jahres 1803*, in *Forschungen zur deutschen Geschichte*, vol. iii, 239 ff.

⁴On the events of these years, see any standard history of the period, e. g., Ranke, *Hardenberg*, i, 453 ff.

disturber of Europe's peace. On March 8, King George's message to Parliament asking that body, in view of certain hostile French movements, to appropriate funds for the national defense, warned Europe that the hour of peace had struck.¹ And yet the giants hesitated. Did they feel it was to be a death-grapple? For two months more England's representative, Lord Whitworth, remained in Paris.²

Here again we must leave the larger field to notice one of the inevitable results of the great world-struggle on which England was entering. The purpose of this chapter is to tell briefly the story of the diplomatic preliminaries to the French occupation of Hanover in 1803. As this monograph is chiefly interested in those events and policies where Prussian action affected or determined Hanoverian history,³ this interest will furnish the

¹ French translation of the message in Thiers, *Hist. du Consulat et de l'Empire*, iv, 308-309.

² Cf. O. Browning, *England and Napoleon in 1803, being the Despatches of Lord Whitworth and Others* (London, 1887).

³ The subject of the French occupation has already produced a considerable literature. At the time, it brought on a pamphlet war—attacks on those held responsible for the disaster and their defences. These pamphlets, of which Columbia University has a considerable collection, are catalogued and reviewed in the *Jenäische Allgemeine Zeitung*, Feb.-May, 1806. The defence of von Lenthe, the Hanoverian Minister in London, was not printed until 1856 in the *Zeit. des Vereins für niedersächsische Gesch.* The whole subject is treated at length in F. v. Ompteda's *Die Ueberwältigung Hannovers durch die Franzosen*. Hanover, 1862. 362 pp. Ompteda has made excellent use of archival material, much of which he has quoted or printed in appendices. Most of the material used by Ompteda is in *Cal. Br. Des. 11, E. I., no. 1198*, and *Cal. Br. Des. 24, Brandenburg-Preussen, nos. 600 and 601*. For Duroc's mission, see also *Hanover, Des. 92, XXXVII A. no. 11, B., 2*. Münster's reports from St. Petersburg are in *Cal. Br. Arch. Des. 24, Russia, nos. 127, 128, 131^a and 134^a*, and *Hannover, Des. 91, Nr. 6 and 7, and Des. 92, Nr. V. B., 2*. Having tested Ompteda's accuracy in transcribing from these documents, I feel at liberty to refer

criterion in treating Prussia's relations with other European powers.

On March 20, a hurrying courier dashed into Berlin bearing a message of warning from Lucchesini, the Prussian ambassador in Paris. Duroc, a trusted aid of Napoleon, was coming as special messenger to the king of Prussia.¹ The message of King George to Parliament,

frequently to his book, rather than to the inaccessible archival material. The quotation on page 23 of Ompteda is one of the very few cases in which I found him using quotation marks while giving in his own language the sense of a despatch. Dr. Bailleu in his introduction to Volume 29 of the *Publicationen aus den Kgl. Preussischen Archiven* (referred to as Bailleu, ii.) has given an excellent account from the standpoint of French-Prussian interests, and has selected and printed the most important communications between Paris and Berlin touching the subject. Häusser's twenty-page study in the *Forschungen zur deutsch. Gesch.*, vol. iii has already been mentioned. Hassell, *Das Kurfürstenthum Hannover vom Baseler Frieden bis zur preuss. Occupation im Jahre, 1806*. (Hanover, 1894) in pp. 168-325, wanders over the subject with the help of Ompteda's book. As I have not taken space to review Hassell's book on the topics covered by his work and this monograph, I must leave the reader to get an idea of Hassell's method and accuracy from the reviews of his work. See *Hist. Zeit.*, 1895, pp. 126-128, *Jahresberichte*, etc. (1894), ii, 257. *Mitt. a. d. Hist. Litteratur* (1897), vol. 25, 336. For the Russian phase, the reader will perceive I am indebted to the notes in F. Martens, *Recueil des Traités conclus par la Russie*, vol. vi. These I have supplemented and in some cases corrected by a personal examination of the despatches of the Prussian ministry to Count Goltz, then representative in St. Petersburg, and by other material in the Berlin Archives, in the two fascicles designated *Rep. XI, Russland, 152 A*, and *152 B*. The despatches to and from Mr. Jackson, English ambassador in Berlin, Mr. Paget, ambassador in Vienna, and Sir John Warren in St. Petersburg in the *English Record Office* contain some supplementary material of value. From the Russian-Prussian side, Dr. H. Ulmann's *Russisch-Preussische Politik unter Alexander I. und Friedrich Wilhelm III. bis 1806* (Leipzig, 1899), furnishes more light than any other treatment for the correct interpretation of Russian-Prussian relations in 1803. *Pub. aus den Kgl. Preuss. Archiven*, vol. 75 (ed. Bailleu) gives the correspondence between Alexander I. and Frederick William III.

¹ For Duroc's character and activity, see Bignon, *Hist. du France*, etc., i, 70-78; ii, 3.

the hurried conferences in Paris, the plans of Napoleon on Hanover, the possibility of an appeal to Prussia to guarantee the neutrality of Malta—on all these points the messenger who had braved the perils of snows and flooded Rhine carried the first news to Frederick William III. and his cabinet.¹ Three hours later, the carriage of the French special envoy rolled into the Prussian capital. The diplomatic world of Berlin was in a flutter. What did it all mean? No one knew until evening when other hastening messengers had brought the latest Hamburg and London papers containing the message of the English king asking Parliament to give him funds for the national defence. A tyro in diplomacy could have guessed the import of Duroc's mission now—it was war, and Prussia was to be asked to decide at once on the proposals made by Napoleon—to *decide*, Frederick William III. to *decide*—but what, and how?

On April 4, the energetic envoy of the First Consul was back in Paris.² What had he accomplished in his fifteen days of absence? Did he bear any more definite message than the windy nothings in the personal letter of Frederick William to Napoleon?³ His own despatches from Berlin (March 20–27), and Haugwitz's letters and instructions to the Prussian ambassadors in London, Paris and St. Petersburg, tell the story of his mission and of the tentatives of the embarrassed king and his advisers. The letter from Napoleon to King Frederick William and the interviews of Duroc with the king and Haugwitz, painted all the iniquities of England's conduct in not meekly accepting the interpretations which the

¹ Bailleu, ii, 124–125.

² Bailleu, ii, p. 136.

³ Letter in Bailleu, ii, 132–133.

imperious First Consul put on the stipulations of the treaty of Amiens, particularly on those which concerned Malta. Prussia, as one of the nations whose guarantee of the treaty had been stipulated but never given, was appealed to by Napoleon as an ally, who, by acting with Russia, might secure the English evacuation of Malta. Hanover, the pawn in the international game of war, was to be swept into the French possession; for the mouths of the Elbe and Weser must be closed to English commerce. Thus concretely was the immediate fate of Hanover¹ and the ultimate destruction of Prussia announced to the dismayed statesmen in Berlin. Haugwitz mustered all the well-known arguments against French aggression in Northern Germany; for he saw more clearly than Lombard, his rival in the king's councils, that to allow the French to enter Hanover was the beginning of the end for Prussia, whose sole advantage would consist in seeing itself the last victim to be devoured by the boundless ambition of Bonaparte.² The Prussian commerce on the Elbe and Weser and through the Hanseatic ports, all of it carried on largely in Prussian bottoms, was of incalculable advantage to France, who, Haugwitz argued, would see these sources of supplies closed by the fleets of England³ if France committed

¹The mission of Duroc was kept very quiet, but Ompteda in Berlin easily solved its purpose and early pointed out that the king would hardly occupy Hanover in the face of the French. See his letters of March 22 and April 2 in *Hannover, Des. 92, XXXVII A., Vol. I.* But von Reden, who was the regular Hanoverian envoy is less clear in his views and more suspicious of Prussia. Cf. his reports of April 2 and 23 in the same package.

²F. Martens, *Recueil des Traités conclus par la Russie*, vi, 310.

³It was this commerce, a great part of it with England, that the English might hope to see Prussia endeavor to protect against French oppression. "I have M. de Struensee's authority for saying . . . that with-

any act of aggression against Hanover. He could see but one guarantee for the undisturbed continuance of the Prussian neutral trade with France, and that was Prussia's ability to hold off the English attacks or indemnify herself for them by seizing Hanover. To the larger proposition of preventing hostilities, the Prussian government addressed itself with feverish eagerness.¹

The chief interest of our study is in the fate of Hanover, but it is now, as often before, that we turn our attention, not to London or Hanover, but to the events and policies in Berlin. It is now, as in 1801, that we find, however, that Berlin is not, after all, the ultimate in Prussian policy. An irresolute, peace-loving king, divided councils, empty treasury and unprepared army are not in 1803 any more than in 1801, a combination that generates the energy necessary to a strong initiative. Before we know what Prussia will do to save Hanover from the French we must await, as they did in Berlin, the result of the Prussian representations made at London and St. Petersburg. Duroc was told what steps Prussia would take to bring England into the ways of peace, and with this indefinite evasion of his attempt to ensnare Prussia, the First Consul had to seem content.²

out the Importations from Great Britain the manufactures here and the operations of the Maritime Society must very shortly come to a stand. Of the considerable quantity of Cotton manufactured by the Prussian Dominions about 4/5s are woven from British yarn. The wants of the Cloth Manufactories are still greater—and they have as yet received no supply of Colonial Produce but what has come through the Hands of British Merchants." Jackson's despatch of May 16. [*Eng. Record Office*]. The English minister warned his government, however, that commerce and every other consideration would be sacrificed by Prussia rather than undertake a war against France.

¹ On Duroc's mission, see his reports published in Bailieu, ii, 127-132.

² Report of Lucchesini, April 11. Bailieu, ii, 136-137.

The instructions that were sent by Haugwitz to Jacobi, the Prussian ambassador, in London, contained a compound attempt to secure, not so much universal peace, for its own sake, as peace for the sake of an unmolested Northern Germany and an undisturbed Prussian commerce on the Elbe and the Weser.¹ Prussia acceded at once to the treaty of Amiens, and offered, in conjunction with Russia, to assure the neutrality of Malta from which England was expected to withdraw. In the alternative of war, the instructions continued, Prussia, with its wealth embarked on the high seas, must have from England, not an unqualified acknowledgment of the principles of the maritime neutrality of 1781, but such an understanding as would secure the neutral trade carried on in Prussian bottoms. The alternative was the seizure of the king's German lands, which were to be held by Prussia as an indemnity for her losses on the high seas; in other words, Prussia would again occupy Hanover. On that point Haugwitz at least was clear. To St. Petersburg, through Alopäus, the Russian ambassador in Berlin, and Goltz, the Prussian envoy to the Czar, an appeal was made for the Russian support and co-operation without which Prussia could do nothing. Whatever may have been the answer expected from London, the Russian interest which had been so often expressed in the neutrality of the north of Germany, and particularly in that of the Hanseatic cities, in whose great banking-houses Russia and her merchants had immediate concern, seemed to assure King Frederick William that Russia, "the mountain of snow," would move at his call.

In London, the Prussian propositions, however, did

¹Instructions dated March 28, 1803, in *R. XI, 73, England Conv., 177 (Berlin Archives)*.

not receive the slightest support from the Russian ambassador, Woronzow, who told the astounded Jacobi that he had no instructions to offer a joint Russian-Prussian mediation; consequently, they fell on deaf ears.¹ Lord Hawkesbury would only reply to the Prussian propositions about neutral commerce and the seizure of Hanover by regretful and deprecatory shrugs of the shoulders, and by unyielding assertions of England's indifference to the fate of Hanover when great principles of international law touching England's very existence were at stake.²

Turning from the unsolved problem of why Prussia, if she seriously hoped to save Hanover from the French, proposed her protection on terms which she knew from her experience in 1801, were wholly unacceptable,³ we

¹For evidence that Woronzow and Jacobi were working at cross purposes and that Alopäus and Woronzow did not act like representatives of the same (Russian) government, see Jacobi's letters of May 5 and 24, Haugwitz's of June 14, 1803, in *R. XI, 73, England Conv., 73*, and instructions to Goltz, June 2 [*Berlin Archives*].

²Häusser, *Deutsche Gesch.*, ii⁴, 447 and *Forschungen zur deutschen Gesch.*, iii, 245. See expression of King George's interest in Ompteda, 63. Some particular favors to Prussian commerce would be given but no general concessions. The Addington Ministry seems to have expected that the Northern powers (Russian and Prussia?) would not allow the French invasion, and was surprised when the news of the convention of Suhlingen came. (*Cf.* Jacobi's despatch of June 14-16, 1803, *Berlin Archives*.) Hawkesbury's reply to Jacobi leads Prussian historians into long denunciations of England for abandoning Hanover when England was to blame for the approaching catastrophe. *Cf. e.g.*, Oncken, *Das Zeitalter der Revolution*, vol. ii, pp. 91 ff. The reader will notice that the English ministers vigorously supported the Hanoverian envoys and this, in view of the fact that there was no alliance between the two powers, is as much as it was possible for England to do since her strength was on the sea.

³Haugwitz seems to have been in earnest in the matter, though Prussia had in 1802 forfeited English confidence (*Cf.* Thiers, iv, 244, 255, 256), and the English ambassador gave Haugwitz no grounds for hope.

come next to a consideration of the attitude and action of Russia. As in 1801, so in 1803, the views at St. Petersburg are of prime importance.

Since the accession of the young Czar, Alexander I.,¹ Russia had, to a large extent, abandoned her attempts to play the game of European politics. The inexperience of the young ruler, his pacific inclinations, the influence of his advisers, and the internal interests of the country which had been left in disorder by the vagaries of Paul, had combined to make Russia content for a time to work out her own home problems before entering upon any attempt to control the course of events in Europe.² Not even the question of Malta, about which Paul had personally concerned himself, had moved his son to accede to the guarantee of the island's neutrality according to Article X. of the treaty of Amiens. But there was one phase of European politics between 1801 and 1803 in which Alexander manifested, not only the beginnings of his interest in the peace and good order of Germany, but also his altruistic desire to pose as the protector of weaker powers. The question of indemnities in Germany was the subject in which the Czar sought to make his influence felt.³ Though the seat of

(Cf. Jackson's despatch of May 16, 1803, in *English Record Office*). May 17, Haugwitz wrote a personal letter to Jacobi, suggesting that a very small concession to Prussian commerce would suffice. *R. XI, 73, England Conv., 77, Berlin Archives*. Cf. also *Zeit. d. hist. Vereins für Niedersachsen*, 1856, p. 176.

¹See Bailieu's characterization of Alexander. *Pub. aus den Kgl. Preuss. Archiven*, 75, p. xiii.

²Cf. Bernhardi, *Gesch. Russlands*, 4th Bk., Chs. 1 and 2. Note the manifesto of July 1/13, 1801, (Cf. Bernhardi, as cited, p. 451). See Ulmann, 25, and F. Martens, *Recueil*, ii, 375.

³See his correspondence with Frederick William III. in *Publicationen aus den kgl. Preuss. Archiven*, vol. 75.

the negotiations concerning indemnities had been removed to Paris, Russia still sought to make her influence effective.¹ In the course of these negotiations the successor of Paul, who had once offered Hanover to Prussia as an indemnity, had come to feel that Prussia's extensive claims needed to be moderated² in order that she might not outweigh Austria in the Empire and thus become a too powerful neighbor of Russia.³ The success of Prussia in secretly negotiating with Napoleon for an area that was "rather a conquest than an indemnity,"⁴ had increased the uneasiness at St. Petersburg. The Czar had not only his own interests and plans to consider in the question of Prussia's indemnity, but must have heard the fears of such small powers as Holstein and Mecklenburg to whose reigning families he was related. On Hanover's appeal to him through Count Münster he had attempted to arrange with Prussia the exchange of Osnabrück for Hildesheim. The representations of both parties had given the St. Petersburg cabinet a glimpse of Prussia's interests in Westphalia, where, by the indemnities of 1802, she was promised a western extent comparable to her Polish acquisitions. Further, the strategic importance to Prussia of Hanover which now, more than in 1801, was in the centre of Prussian possessions, must have been equally clear to the Russian cabinet. Nor had the Russian intercession in behalf of Hanover in the indemnity matter had pleasant results; for even at the interview in Memel (June, 1802) which was to cement the fraternal relations be-

¹ Ulmann, *Russisch-preussische Politik*, 27.

² See instructions to Krüdener, Dec. 5/17, 1801. F. Martens, *sup. cit.*, vi, 296.

³ Cf. *Sbornik*, 70, 193.

⁴ Häusser, *Deutsche Gesch.*, ii⁴, 371.

tween the two monarchs, the subject of Hanover had proved the Banquo's ghost of the diplomatic festivities. Politics were tabooed in the conferences between the sovereigns, but Kotschubey, the Russian minister, took occasion to present the justice of Hanover's desire to exchange Osnabrück for Hildesheim. To this Lombard replied, supposedly in the king's name, that his Majesty would willingly make such an arrangement. The Prussian king later denied ever having authorized such a promise. Despite this denial, however, the Russian ambassador was instructed to support Hanover's plans by appealing "to the positive assurances made in the king's name by Lombard." Thus the bickering had continued until shortly before the crisis of March, 1803.¹ Nor had the confidence and good feeling between the two countries been increased by Alopäus, the Russian minister, who was decidedly skeptical as to Prussia's ability to embark on a policy of energy and force. It is evident, then, that the atmosphere in St. Petersburg in the spring of 1803, despite the personal friendship of the sovereigns,² was not favorable to that confidence so necessary for the Prusso-Russian unity, which alone could give security to the threatened neutrality of North Germany.

In 1801, Frederick William III., after long delay, had been forced by Russia to occupy Hanover. In 1803, Haugwitz, who was firm in his determination to exclude the French from Hanover, realized that the co-operation of Russia was the only influence that might induce his

¹ Ulmann, 40-41.

² The divergence of Prussian and Russian policies should not be obscured by the relations between the King and Czar. Cf. *Hardenberg's Denkwürdigkeiten* (ed. Ranke), ii, 40. Ulmann in his *Russisch-preussische Politik, . . . bis 1806*, 31, 41-43, emphasizes this crossing of dynastic and state interests.

master to save again the neutrality of North Germany. Coincident with the representations which Ambassador Jacobi made in London, Count Goltz, the Prussian ambassador in St. Petersburg, was instructed to inform Russia of Prussia's intention to seize Hanover if England did not concede the maritime principles of 1781, in which case Prussia would find itself obliged by the war, to have some way of collecting from England an indemnity for the losses to Prussia's shipping trade.¹ In addition, Haugwitz laid before Alopäus, the Russian ambassador, the absolute necessity of Russia's support should England reject these propositions, and assured him of Prussia's earnestness in interceding for neutrality. But despite the apparent sincerity of Haugwitz, Alopäus felt that Prussian energy would exhaust itself in negotiations.² Before a definite reply had come from St. Petersburg, he was able to confirm out of Haugwitz's own mouth, his conclusions as to the essential weakness of the Prussian government. The king had vetoed Haugwitz's proposition to occupy the Electorate of Hanover before the French advanced. The king did not desire to be again under the suspicion so often expressed in 1801, namely, that he then sought only selfish acquisitions in occupying Hanover.³ Haugwitz, though con-

¹It is noticeable that Jacobi in London was instructed to modify his language to suit the occasion, and he only spoke of the "protection" of Hanover, whereas Goltz spoke in St. Petersburg of "occupation" if England did not concede what every one knew she would not concede, so that when that concession was not made, Prussia could hold Hanover for losses which she alone would reckon. The attitude of the Russian government could hardly have been favorable to such an arrangement.

²Alopäus to Chancellor A. Woronzow. Berlin, March 17/29, in F. Martens, *Recueil*, etc., vi, 309.

³The effect of 1801 on the king is shown in his remark to Gen. Mölendorff: "Bei dem verdamnten Kriege womit man jetzt wieder bedrohet

scious that the French in Hanover would be at the gates of Magdeburg and pushing for an alliance, was too uncertain of his own influence,¹ and held it better to renounce his project and obey the king.² His one hope was that the Czar, on whose decision hung the fate of Europe, would come to Prussia's support, and that not too late. Together, they might hold off Napoleon from carrying war into the heart of the hitherto neutralized area.³ Again and again Haugwitz brought up the subject nearest his heart and expressed the hope that Russia might yet render possible his plan of preventing a French occupation.⁴ Meanwhile, Count Goltz in St. Petersburg was urging before Alexander I. the cause of German neutrality and calling attention to the importance to Russia of the commerce of the Elbe and Weser, and the safety of the Hanseatic cities. The voice from "the mountain of snow" in the North was awaited impatiently in Berlin and in Hanover. For now, as ever, the Electorate was seeking to guide its own course despite the inevitableness with which its weakness, political isolation and geographical position drew it into the course steered by Prussia.

sei, werde er abermals durch ein Land in Verlegenheit gesetzt werden, dass sein Interesse nicht einmal verdiene, da es dasjenige was er Anno 1801 bei dem Drange der Umstände für selbiges gethan mit so vielen Undank belohnt, und ihn noch hinterher deswegen verläumdete habe." Ompteda to Rudloff, April 3, 1803. *Hannover, Des. 92, XXXVII, A. [Han. Archives.]*

¹ See his own complaints to Hardenberg at this period. *Denkwürdigkeiten*, ii, 29.

² On this pliability of Haugwitz's, see the view of Bray, Bavarian envoy, in Bailleu, ii, 623.

³ Alopäus, April 25/May 7, F. Martens, *sup. cit.*, vi, 310.

⁴ F. Martens, etc., vi, 311. "Haugwitz fit l'impossible pour empêcher que les Français vinssent à Hanovre." Lombard, Aug. 20, 1806. Bailleu, ii, 615.

If the Prussian occupation of 1801 and the haggling with Prussia over indemnities had prepared the soil of suspicion in St. Petersburg, Vienna and London,¹ and left the sensitive Prussian monarch more than ever inclined to limit himself to the household economies of his own state, it had to a no less degree scarred and warped Hanoverian opinion of Prussian policy.² Von Lenthe, the Hanoverian minister in London, though representing the extreme of anti-Prussian sentiment, probably voiced more than his own views, when in October, 1801, he expressed his gratitude to Carysfort for securing what, without his aid, might never have been accomplished, that is, the withdrawal of the Prussian troops from the Electorate. The insistence of Prussia on the bishopric of Hildesheim as part of its indemnity, had, as already remarked, particularly aroused political and military circles in Hanover; for Hildesheim, while it did not round out Prussian territory, did bring the Prussian boundary within striking distance of the Hanoverian capital, and rendered it easy for Prussia to cut off the southern principalities of Göttingen and Grubenhagen.³

The efforts of the Regency to remove this danger through the negotiations of Ompteda in Berlin and Münster in St. Petersburg, remained seemingly ineffectual. It is only when we come to sum up the anti-Prussian influences at the Russian court that we see that

¹V. Reden reports April 16, 1803, that Ambassador Jackson said to him, "So lange Preussen diese Grundsätze (idea of Hanover as an English dependency) aufrecht erhält, wird man nie auf diese Macht zählen können sondern sie stets als ein heimlicher Alliirter Frankreichs zu betrachten genötigt sein." *Des.* 24, no. 600 [*Hanoverian Archives*].

²See *Hardenberg's Denkwürdigkeiten* (Ranke, ed.), ii, 18.

³*Cf. e. g.*, such a map as No. 41 in Schrader's *Atlas Historique*.

Münster's work contributed to effect what he and his Electorate would have given everything to undo. That Russia did not act promptly in approving the Prussian plan of occupation has hitherto been often attributed to the efforts of Münster acting under instructions from von Lenthe in London. But as we shall see, this is seeking in a wholly false way to explain what truth there is in the much exaggerated influence of Count Münster, in hastening the fall of the power he represented. What he did, and did with all the energy of a good hater of Prussia, is not to be found in his actions under orders from London after war was certain, but in his influence exerted steadily for sixteen months before in strengthening the anti-Prussian attitude of the Russian government.¹

To have been in any way involved by the policies of England during "the Second Hundred Years War" (1688-1815), was to be under the necessity of keeping one's hand on the pulse of the French-English relations. Such a training the diplomats and ministries of Hanover had been offered during the eighteenth century and particularly in the years since 1792. The insignificance and insecurity of their own position, the presence of the French in Holland on their western border, their geographical connection with the fate of Prussia and with

¹ For instance, in December, 1801, he handed in a copy of von Dohm's plan for a North German Confederation (see the note at the close of Chap. V.) as evidence that Prussia was attempting to increase her power in a way inimical to the interests of Russia and North Germany. Münster particularly dwelt on von Dohm's suggestion that the matter of indemnities be regulated with a view less to making up losses than to the consolidating of the region in such a way as to facilitate his plan of confederation. Münster dates the plan of von Dohm, September, 1800, and says it has been submitted to the consideration of the Berlin cabinet. See *Calenberg Briefe, Designation 24, Russia, no. 127 (Hanover Archives)*.

the war for the commerce of the great rivers flowing through Hanover, their membership in the German Empire and their undefined and uncomfortable connection with the crown of England placed the responsible ministers of Hanover where broad views and eternal vigilance seemed, not only indispensable, but inevitable. For a century Hanover had been, as Cobenzl once said of Austria "à la bouche du canon."¹ One who had not known Hanoverian history before 1803, might come to the study of the events of that year with the expectation that the Regency in Hanover and the minister in London would have prepared their land and defined their policies with the renewal of a French-English war in view, knowing that such a storm would find them unprotected by any demarcation line.² But we who know the years since the treaty of Basel, are fortified against such disappointment.

Historians and pamphleteers who have dealt with the events of 1803 from the Hanoverian point of view, have fallen into the fundamental error of treating the actions of the Electorate as definitive in relation to the outcome. They have then lost themselves in an effort to apportion the blame for the catastrophe which delivered the Electorate without resistance into the hands of Napoleon's general, Mortier. In such treatments of the subject the reader may find duly set forth all the acts and omissions of King George III., the minister in London, the Regency in Hanover, and the commanding general of the Hanoverian army. It is, however, one advantage of the point of view maintained in this monograph that, while

¹ *Hist. Zeit.* for 1903, p. 480.

² The treaty of Lunéville in February, 1801, had abrogated the Demarcation Line between the combatant and non-combatant states of the Empire. This view is expressed by Ranke, Bailleu and Thimme.

not neglecting the events in Hanover, the writer will not here be compelled to drag the reader through a long disquisition on what a Rudloff, a von Lenthe or a Wallmoden-Gimborn did or did not do. Our energies may be reserved for the consideration of the field where things were really determined.

Though not blind to the danger or probability of a renewed French-English war,¹ neither the Regency nor the responsible Hanoverian minister in London, von Lenthe, had done anything to put the small Hanoverian army in efficient condition.² No understanding had been reached with any great power as to what would be done for Hanover. The occupation of 1801 and the aggressive indemnity policy of Prussia had rendered von Lenthe so suspicious of Prussia that in the crisis of 1803 he preferred a French to a Prussian occupation,³ and wavered in his plans between disposing the Hanoverian army to resist a Prussian or a French invasion.⁴ The absence of any Hanoverian delegate at the negotiations in

¹In March, 1802, von Lenthe in London in a letter to Münster pointed out the danger to Hanover from a breach of the treaty of Amiens. See his defence in *Zeit. d. hist. Vereins für Niedersachsen*, 1856, 164.

²See (Gen. Wallmoden) *Darstellung der Lage worin sich das hannoversche Militair in den Monathen May, Juny und July sich befand*, passim. General Wallmoden's letter to the king, April 27, 1803, published in Ompteda's *Überwältigung Hannovers durch die Franzosen*, 324 ff, is a sufficient summary. On the views and morale of the army during the important period see F. von Ompteda, *Das hannoversche Regiment Fuss-garde im Jahre, 1803*, in *Zeitschrift des hist. Vereins für Niedersachsen*, 1860, 274 ff. A large part of the letters included in this essay are republished in Ompteda, *Überwältigung*, etc., 213 ff.

³V. Lenthe's defence, *sup. cit.*, 175. Other expressions of his anti-Prussian feelings on pp. 169-170.

⁴V. Lenthe's defence, *sup. cit.*, 177. The Regency preferred a Prussian occupation. Cf. Ompteda, 86.

Amiens¹ or later in Paris,² had left Hanover unsecured by any direct agreement with the French. The Hanoverian desertion of the Empire since 1795 and the ineffectiveness of that organization, even had it been disposed to act, made any guarantee of Hanover's neutrality by the Empire out of the question. The Imperial court of Vienna was so disgruntled at both Prussia and Hanover, that, like von Lenthe, it rather preferred a French to a Prussian occupation.³ There still remained Russia distant in the North almost a month's journey from London, and at least a fortnight by courier from Berlin.⁴

It was to Russia, then, that von Lenthe turned in the serious situation created by the, to him, unexpected royal

¹This was due to English jealousy. *Cf. Zeitschrift des hist. Vereins für Niedersachsen*, 1856, p. 163. Note 1.

²In March, 1803, when the danger was clear, it was proposed to send v. der Decken to Paris. He left by way of London but the rush of events, if not the opposition of Geo. III., rendered such a mission untimely. *Cf. Ompteda's Ueberwältigung*, 18. It would not be exceptional if von Lenthe had no information of such threats as Napoleon made in November, 1802, against Hanover. *Cf. Thiers, Hist. du Consulat et de l'Empire*, iv, 248-249.

³*Cf. A. Fournier, Gentz und Cobenzl.* Note 1, 77 (Vienna, 1880). After the French had entered Hanover, the Regency issued a declaration of neutrality, May 28 (in Ompteda, Appendix X), and sent this with an appeal for help to the Emperor in Vienna, but Hardenberg never had an opportunity to plead his case to the Emperor. *Cf. Ompteda*, 193-194.

⁴Anyone who has not convinced themselves by actual examination of despatches, how important the time element was in the negotiations of those days and how constantly the investigator must keep it in mind, will be aided by examining the time table between diplomatic centres given in Hüffer, *Der Rastatter Congress*, Pt. I, p. 32. It took a courier about a week between London and Hanover, five days being exceptionally fast time. *Cf. Zeit. d. hist. Vereins für Niedersachsen*, 1856, pp. 188-189. The time between Berlin and Hanover was 2-3 days.

message to Parliament, March 8.¹ With the advice and consent of King George, who seems to have been as unconscious as his minister of the rapidity with which Napoleon, though perhaps preferring peace, would push hostile measures, an appeal was made to the Czar to protect Hanover from a French invasion. The success of such an appeal seemed practically certain if one accepted the assurances of Count Woronzow as the voice of his government. He was positive that no one need be solicitous about the neutrality of North Germany which his master, the Czar, would protect against either French or Prussian aggression.² But Simon Woronzow, though his brother was the Russian chancellor, had been too long in London and had become too decidedly pro-English and anti-Prussian in his sympathies to be a trustworthy mouthpiece of the new government on the distant Neva.³ The instructions to Count Münster to lay the cause of Hanover before the Czar, left London on March 18.⁴ They arrived in St. Petersburg on April

¹ V. Lenthe's defence, *sup. cit.*, pp. 167-168.

² V. Lenthe's defence, *sup. cit.*, 171, 172. Ompteda's *Ueberwältigung*, 20-21.

³ It was unfortunate for Prussia that in the crisis when the possibility of her acting depended on Russia's co-operation, the Russian ambassadors at the important posts in London, Paris and Vienna should have been anti-Prussian in their views. Cf. Ulmann, *Russisch-preussische Politik bis 1806*, pp. 31, 48-49. The blame which von Lenthe in his defence lays on Woronzow for having misled him as to Russia's readiness to protect the neutrality of North Germany, is echoed in the complaints of Best, Hanoverian attaché, to Jacobi after the surrender of the Hanoverians. Cf. Jacobi's despatch of July 26, 1803. (*Berlin Archives.*)

⁴ Von Lenthe's defence, *sup. cit.*, 172. Lenthe's idea seemed to be that a Prussian invasion would surely come, and that Russia ought at least to co-operate in order to guarantee Hanover's future when the occasion for occupation was gone. The long occupation of 1801 and

12, but a series of intervening circumstances, Russian holidays and Münster's absence on a hunting trip, prevented an audience with the Russian chancellor until May 10. In the meantime, Sir John Warren had received instructions which were sent a month after Münster's, directing him to co-operate with the latter, and to claim, on behalf of England, Russia's good offices in keeping the north of Germany undisturbed. To Münster was left the editorship of the joint note, and a very mild one it was. Sir John's instructions¹ did not permit his suggesting specific measures, and Münster, having little hope that Russia could be brought to take any positive steps, had felt it better to present in general the importance of the neutrality of North Germany and to refrain from definite proposals in the first interview.² He therefore framed his communication, keeping in view the probability that Hanover might yet have to depend on Prussia's co-operation.³ To this mild and belated representation of Münster and Warren,⁴ much importance is

the absurdity of thinking that Prussia could be expected to march in and out of Hanover as each new turn of English policy endangered Hanover and with it all North Germany, might well make both von Lenthe and the Regency anxious to avoid an unconditional Prussian occupation.

¹ In the *English Record Office* under date of April 19, 1803. They reached St. Petersburg in the remarkably short time of seventeen days. April 8, Warren reports having talked over the exigencies of the approaching struggle, and Chancellor Woronzow said in his pompous style "that in the proposed invasion of Hanover respect must be paid to the opinion of Russia." Warren was decidedly anti-Prussian and the general English feeling was that Prussia's proposals had been approved by Duroc for Napoleon.

² Münster's despatch of April 29/17. [*Hanover Archives.*]

³ Ompteda, 87. See footnote 1.

⁴ Münster supplemented it on the following day by more specific objections to Prussia's proposals, and he again agitated the subject of the exchange of Hildesheim. Münster to the king, May 12/24.

attached by those who explain Prussia's inaction by Russia's opposition.¹ But any comparison of dates and distances will show how little influence these representations of the Hanoverian and English envoys, which were made on May 10, could have exercised upon the instructions sent from St. Petersburg to the Russian ambassadors in Berlin and Paris; for these instructions, which, as we have seen, were in Paris by the middle of May, must have left St. Petersburg certainly as early as the first of May in order to have reached either Paris or Berlin by the date mentioned. Indeed, after the sketch that has been given of the situation in St. Petersburg, it does not need the exploitation of the above action of the two envoys of George III. in order to explain what attitude a friendly and interested power such as Russia, would be likely to assume toward an invasion of Hanover—an invasion which even the Prussian king himself termed a "mesure de rigueur."²

The truth is that Russia was well prepared to put her own interpretation on Prussia's plans. It must not be forgotten that Russia had learned in 1801 how willingly Prussia would retain Hanover, if, when England refused just such a proposition as Prussia was now making, France and Russia would unite to support her against England. England refused to entertain Prussian views of maritime neutrality in 1801, and Russia knew from her experience in negotiating the convention of June 17, 1801, that England's views were unchanged. Since then,

¹ See for example Treitschke, i, 214. Up to May 24, Chancellor Woronzow had vouchsafed no reply to either Münster or Warren. On that date he told Münster that as Russia had taken steps towards maintaining peace, he could take no such action as Münster had suggested, as that could only be justified by the war they were working to avoid. Münster's despatch of May 24. (*Hanover Archives*.)

² King to Goltz, March 28 (*Berlin Archives*).

Russia, after seeking for some time to modify Prussia's indemnities, had seen her enter into possession of her claims by virtue of a treaty with France. Can there be any doubt that Russia would see in this combination of French patronage and Prussian desires and interests the keynote to any Prussian proposition about saving Hanover from the French¹ or holding it if England, by not recognizing "free ships, free goods," should inflict losses on Prussian commerce?² Such a move would mean the destruction of the recently restored order and balance in the Empire, which the Czar might regard as in part his work.³ Chancellor Woronzow and his master desired to

¹This Russian suspicion that Prussia was acting in collusion with France is attested by Goltz's despatches, *cf. e. g.*, April 27/May 9 (*Berlin Archives*). See also Ulmann, *Russisch-Preussische Politik*, pp. 53, 54, 61 (note 3), 62, 66.

²In a despatch to Alopäus from St. Petersburg, May 25/June 6, Chancellor Woronzow acknowledges the receipt of Alopäus' despatch of May 10, reporting an interview with Haugwitz in which the latter blamed Russia for not supporting Prussia's proposals in London and attributed Prussia's failure to act energetically to Russia's silence. Woronzow explains that Russia was silent because she knew that the demand for the principles of 1781 would never be acceded to by England, and that "Quelque importante que puisse être pour le Roi d'Angleterre la possession de l'Electorat de Hanovre, elle lui est cependant purement personnelle et ne saurait engager le Ministre Britannique à la mettre en equivalent avec un objet qu'une raison d'état majeure lui fera toujours défendre à toute extrémité. La Prusse en faisant ces propositions a abondé dans le sens de la France et est devenu ainsi l'exécuteur des volontés de Bonaparte; nous ne pouvons sous aucun rapport suivre son exemple." A copy of this despatch was evidently sent to Haugwitz by Alopäus on May 31, when he notified the former that if Prussia was prepared to adopt an independent policy and sustain it by force of arms, Russia was "prête à la soutenir de tous nos moyens et même avec nos troupes." *Cf. Rep. XI, Russland, 152A (Berlin Archives)*.

³It was to this side of the Czar's pride that the Hanoverian appeals were made. The French and Russians had forced their plan of indemnity on the Reichsdeputation. Russia was interested in keeping an equilibrium between Prussia and Austria.

have Russia play a large part in settling the difficulties between England and France without, however, involving Russia in war. They were piqued at seeing Prussia, possibly in collusion with France, rushing forward to mediate and that without consulting Russia.¹ Russia was not blind to the seriousness of the situation and the need of haste, but she most seriously doubted Prussia's motives and she overestimated her ability to restrain the French. Had not the intercession of Russia been effectual when she spoke for Piedmont and Naples?² These motives³ in whatever combination they are placed were all effective before Münster's interview of May 10, 1803. They enable us to understand why Russia assumed a position that embarrassed and mystified the Prussian king and cabinet, until they learned by the indirect route of Markoff's utterances to Lucchesini in Paris, that Russia not only did not favor a Prussian occupation of Hanover, but was revealing to Napoleon the lack of harmony between the two great powers from whom he might in any way expect opposition to his plans on the Electorate.⁴

¹ Goltz, April 12/30 (*Berlin Archives*) and Münster (Tatter, chargé), April 7/19, *Cal. Br. Des. 24, Russland, 131a* (*Hanover Archives*).

² *Archiv. für österreichische Geschichte*, vol. 52, 513-14.

³ Alexander's recent disenchantment as to Prussia's military strength should be mentioned in this connection. See his utterances after the Memel interview in Ulmann, 42.

⁴ F. Martens, *Recueil*, etc., vi, 312. This was reported by Alopäus on May 23 as a result of an interview in which Haugwitz complained of Russia's action. If one notices that it took at that time about one week between Paris and Berlin, and at least three weeks between St. Petersburg and Paris, one can see that Markoff was acting on instructions antedating any interview of Münster's. That Alopäus had similar instructions is clearly indicated by Simon Woronzow's communications to von Lenthe, May 15, of a section of his brother's letter to Alopäus. The matter and date are cited by von Lenthe (*Zeit. d. hist*

Meanwhile affairs in Berlin had taken such a turn that in any attempt to apportion the responsibility for the inaction of Prussia in 1803, one can only say, not that Russia's attitude caused Frederick William to abandon Hanover, but rather, that if Russia had been an aggressive supporter of Prussia's first proposal, Haugwitz might have been enabled to bring the king to execute, even in the face of Napoleon's *Armée d'Hanovre*,¹ the measures which he advocated. By April 22, Frederick William knew that his overtures in London had been rejected,² and that his well meant plans were regarded in Hanover in much the same light as the occupation of 1801. The king was aggrieved and all too

Verein für Niedersachsen, 1856, p. 176) as proof that Hanover's action at St. Petersburg was not responsible for Russia's action. Alopäus evidently did not act on the instructions which he received after he had become convinced that Prussia was in earnest in its desire to protect the neutrality of North Germany, and about the time Hanover, through Capt. Decken, was urging Prussia to save it from the French. The account above makes no reference to a letter from Alexander to Frederick William III. opposing the Prussian occupation, and hinting that Prussia had ulterior aims in its plans for such occupation. Hardenberg (*Denkwürdigkeiten*, ii, 18) quotes such a letter. The evidence for such a letter, of which there was much talk at that time, is given by Ulmann, p. 65, note 2. To the evidence given there I would add that of Mr. Jackson. Cf. his important despatch of July 16, 1803, in the *English Record Office*. Such a letter was not found by Dr. Bailleu while editing the correspondence between the two rulers. Cf. *Publicationen aus den kgl. preuss. Archiven*, vol. 75, p. xiv.

¹ The army was then being assembled in Holland. On March 20, Napoleon had ordered Citizen Lacuée to reconnoitre the whole Westphalian region. "Vous verrez en Hanovre le nombre de troupes qui y est, les obstacles qu'on pourrait opposer à une invasion." *Correspondance*, VIII, 329-330. On April 18, 1803, he issued an order to assemble the French troops at Nymwegen "without noise or ostentation." *Correspondance*, VIII, 357.

² Postscript to despatch to Goltz of that date. Jacobi had presented his note on April 9, and Lord Hawkesbury replied on the 16th.

ready to substitute his injured pride for reasons of state. The uncertainty of peace or war and the silence of the Russian government allowed him to postpone all aggressive measures,¹ and Haugwitz and the party of action² could not, without some definite external impetus, overcome the inertia of the king weighed down as he was by such councillors as Beyme, Lombard and Köckeritz; the king would take no action that might involve him in war.³

The cause of Hanover pleaded in Paris in the name of the king of Prussia⁴ had failed to move Napoleon from a policy long determined.⁵ It was just at this juncture—Napoleon firm to invade Hanover and close the Elbe and Weser, England selfishly indifferent, Russia disapprovingly silent,⁶ Prussia unsupported and undecided—that Captain Decken, this time in the suite of the Duke of Gloucester, arrived in Berlin to plead for a second time the cause of his country.⁷ In 1801, he had come to stay a Prussian occupation, which Russia was

¹ Ompteda, *Ueberwältigung*, etc., 91, 94, 96, 98.

² Haugwitz, Möllendorf, Schulenburg, Struensee, Hohenlohe and Gen. Rückel. The military men were unanimous in urging the king to prevent a French occupation but the king made all military measures dependent on the approval of the Duke of Brunswick. See Mr. Jackson's despatches of March 22 and 29, May 10, 24, 28, 31 and June 28. (*English Record Office*.) Hardenberg, who was also for an aggressive program, was not consulted at all. *Denkwürdigkeiten*, ii, 13 ff, 23.

³ Ompteda, p. 23.

⁴ See Lucchesini's memorial of April 7, in Häusser, ii, 445.

⁵ Lucchesini's report of May 3, 1803. Bailieu, ii, 139.

⁶ By May 5, Alopäus, though personally interested in the cause of Hanover, had felt that his instructions required him to say that Russia, having offered his mediation, could not take measures that presupposed the outbreak of war. Ompteda, 75-104.

⁷ For a full account of Decken's mission see Ompteda, 83 ff. V. d. Decken's reports are in *Cal.Br. Arch. Des.* 24, No. 601 (*Hanover Archives*).

urging. In 1803 he came to ask a Prussian occupation, which Russia disapproved.¹ Would the request of the Hanoverian Regency in 1803 prove any more effective than their protest in 1801?

The Regency had despatched Captain Decken on their own responsibility. The letter of King George to Duke Adolphus of Cambridge had left them without any hope of peace.² Russia, in whom they, like von Lenthe, placed confidence, was too far away to make effective the goodwill its minister in London so loudly proclaimed, and, whatever the absent Elector and his minister thought, the Regency had their own views of a French occupation.³ So they had taken matters in their own hands, and the sending of Captain Decken was the result. Decken having oriented himself in the situation at Berlin by interviews with the Duke of Brunswick⁴ and the English minister, succeeded, through the good offices of Queen Louise, in obtaining an interview with King Frederick William.⁵ The result but confirmed the fore-

¹ V. d. Decken's instructions in Ompteda, 85, 86. Prussian occupation was the third and last alternative and was to be arranged with Russian co-operation. Decken was fresh from London where he had imbibed from Woronzow unjustified confidence in Russia and von Lenthe's suspicions of the Prussian Ministry. May 18, he wrote "Der König hat gewiss die besten Absichten, von dem Ministerio müssen wir leider das Gegenteil erwarten."

² Letter arrived in Hanover, April 29. *Zeit. des hist. Vereins für Niedersachsen*, 1856, p. 188.

³ Regency to king, May 8, in Ompteda, 86.

⁴ The Duke declared that he would not mix in the affair as he feared for his own possessions. But he did later and at a most inopportune time, *i. e.*, the conference at Cörbelitz, May 28.

⁵ The report of the interview with the king is printed by Ompteda, 92 ff. Queen Louise is named by Alopäus with Beyme and Köckeritz as being opposed to any energetic measure. Cf. his despatch, May 2/14, in F. Martens, *Recueil*, vi, 311.

cast of the situation which his friends had given the optimistic envoy. The king considered it to be his policy to avoid in every way a war with France, and France would not consent to a Prussian occupation. Interviews with Haugwitz showed that minister bitter against England for her rejection of his proposition, disgruntled at Russia for her cold indifference, which he attributed to Münster's influence,¹ but anxious by every

¹ Alopäus was of the same opinion (Ompteda, 104). He told Decken about May 19, that three weeks before, he, as well as Woronzow in London, had received instructions to oppose a Prussian occupation. Evidently the instructions to Markoff in Paris are of the same date. I have found no evidence to indicate that Alopäus obeyed his instructions, but the indications are rather that Alopäus, a Finnish Protestant, of liberal views, guarded Russia's interests as he understood them. But with positive instructions in his pocket he had evidently only talked to Haugwitz of general policies, and thus left that minister without any grounds for assuring Frederick William that if he occupied Hanover he would have Russia's unqualified support. On May 7, Jackson reports Haugwitz as complaining to Alopäus of Russia's indifference and lack of energy. (*English Record Office*.) Did Russia express her disapproval to Goltz, the Prussian ambassador? Alexander Woronzow told Sir John Warren that Russia had passed over Prussia's first proposals in marked silence; "that on a subsequent reference to them the Prussian government had been informed as well through Count Goltz as by M. Alopäus at Berlin that His Imperial Majesty could not consent to any change in the present state of the North of Germany, and that he trusted His Prussian Majesty would endeavor to preserve the peace of the Empire as any invasion of it could not be seen by His Imperial Majesty with indifference." Sir John Warren to Hawkesbury, May 24, 1803 (*English Record Office*). But Count Goltz's despatches, while pointing out Russia's desire to play the leading part herself, do not show this disapproval clearly. His despatch of April 23/11 (arriving in Berlin, May 6), shows that though Chancellor Woronzow possibly did not like some features of Jacobi's instructions, Goltz thought that, as to measures regarding Hanover, "Sa Majesté Imperiale les justifie et les approuve d'avance par l'importance de leurs motifs qui les dictent." Replying the same day (May 6) King Frederick William assures Goltz "Vous vous êtes heureusement trompé en vous s'imaginant que vos premières communications ont donné de l'humeur à la Cour de Peters-

bourg. Celle que Je viens de recevoir de sa part me prouvent bien le contraire, et mes démarches dictées par les vues les plus pures ayant été représentées d'ailleurs dans les rapports du Sr. d'Alopäus sous leur véritable point de vue, il était impossible quelles fussent mal interprétées à Petersbourg." Goltz's despatch of May 9/April 27, containing an account of a friendly conversation with Woronzow in which the chancellor had asked Goltz not to press him for a categorical answer, concludes " . . . mais il ne faut malgré cela ne pas prendre le change sur la jalousie que les mesures éventuelles de Votre Majesté ont excitée." The cause of this lies in the Russian fear of French influence, Goltz says. This despatch, however, did not reach Berlin till May 31. A still better proof that no definite Russian opposition to Prussia's proposals had been expressed to Goltz or through Alopäus before the king of Prussia had practically decided on his course, is the despatch from the king to Goltz, May 23, 1803. (*Berlin Archives*.) "Le Comte de Markoff a eu une communication d'une dépêche adressée par le Chancelier Comte de Woronzof au Sr. d'Alopäus et il en fait part au Marquis de Lucchesini pour lui observer que la Cour de Russie n' a pas approuvé ma déclaration au Roi d'Angleterre ni mes idées relativement au pays d'Hanovre. Il paroît ainsi que les ouvertures dont Je vous ai chargé à le suite de la mission du general Duroc n'ont pas été interprétés à Petersbourg dans leur véritable sens et J'en suis vivement affecté car Je n'ai jamais eu d'autre but que de sauver la tranquillité du Nord de l'Allemagne et je ne connaissais d'autre moyen pour y parvenir que d'écarter les François de l'Electorat de Hanovre." After the English rejection and before the news above given, the king had been brought to consider only a proposition for a cordon to protect the Elbe and Weser, and his action on this was conditional on the approval of the Duke of Brunswick (Jackson's despatches of May 18 and 28). All this simply emphasizes the fact that the importance of Russia's position consists in this; that during the decisive weeks it left Prussia to act alone, and unsupported action in opposition to France was beyond the powers of King Frederick William III.

Such light on Russia's attitude received in Berlin as late as May 23, only helped to confirm the king and the party of inaction in a policy that had, since May 1, pointed straight to such a decision as that reached at the conference in Cörbelitz. It is as an excuse for inaction and a return blow at England that one must understand such passages as the following in the king's (Haugwitz's) instructions to Jacobi, May 31: "Je ne devais pas m'attendre à une sollicitation de cette nature après que les Ministres d' Angleterre et de Hanovre avaient remué ciel et terre à Petersbourg pour y représenter dans un faux jour mes premières bonnes intentions et qu'ils avaient effectivement réussi à leur attirer l'improbation de la Cour de Russie. Il en est résulté que J'ai été obligé

means to forward Decken's plans.¹ Alopäus, the Russian ambassador, was personally so interested that he offered to go into the French camp and negotiate the Hanoverian surrender if things came to such a pass. The English ambassador, Jackson, was willing to send his private secretary to London with a Hanoverian appeal to the English Cabinet for maritime concessions that might purchase a Prussian occupation.² But out of all this and a second interview with the king,³ nothing definite came. The king in his embarrassment and indecision had fallen upon the idea—all his own—of having the Hanoverian Regency offer Napoleon a sum equivalent to what he might expect to get from the land. And this suggestion was the most positive comfort the king offered Captain Decken.⁴ The opportunity

d'affaiblir l'intérêt que J'aurais pu manifester ultérieurement en faveur du pays de Hanovre. . . .” In succeeding despatches (June 6 and 18), Haugwitz lays the blame on the English ministry and its rejection of the proposals made by Jacobi in April. At other times and to other parties, Haugwitz blamed the ministry in Hanover, and to trusted persons, the king and the opposition clique in the cabinet. Schulenburg, in a letter to Haugwitz, May 22, said: “Die Schuld fällt wirklich allein auf England.” *R. XI, n. 140, C. 2, Vol. I (Berlin Archives)*.

¹ Decken's report of May 12. *Cf. Ompteda, 95.*

² The long memorial in favor of Hanover that Jackson prepared and read to Decken, is not in the English Record Office.

³ May 17. *Ompteda, 99.*

⁴ Decken told the Russian ambassador, “que le roi, après avoir pris connaissance de la lettre du duc, était visiblement touché et s'était écrié: ‘C'est trop tard, je ne puis pas entreprendre seul la guerre contre la France, et il le faudrait, si actuellement je m'opposais à l'entrée des Français dans votre pays. Je m'en suis assez occupé; j'ai fait faire les démarches les plus promptes, mais elles n'ont mené à rien; de Londres j'ai reçu une réponse insignifiante; je n'ose pas compter sur la Russie si contre l'aveu de l'Empereur je m'embarque. Que voulez-vous donc que je fasse?’” Alopäus despatch of May 2/14, 1803. *Cf. F. Martens, Recueil, etc., vi, 311.*

for successful, decisive action on Prussia's part had passed. On May 12, the English ambassador left Paris, and six days later war was declared. On May 22, the French army under General Mortier began its march against Hanover.¹ The rapidity of its movements and the weakness of the Hanoverian defence, rendered untimely Frederick William's futile offer to become the French tax-collector in Hanover and thus guarantee to Napoleon a certain tribute from the Electorate, if Mortier and his men were kept back.² The conference at Cörbelitz, near Magdeburg, May 28, where this synonym for inaction was decreed by the king, marks a turning point in Prussian history for the next decade.³ Haugwitz, with the same clearness and breadth of vision that had signalized his attitude throughout the crisis, pleaded with earnestness the cause of Prussia's very existence. France must not be admitted into the heart of Prussia's dominions—almost to the gates of Magdeburg.⁴ The effort of

¹ On May 27, Talleyrand informed Lucchesini of the French military plans (Bailieu, ii, 148) which had been dissembled (Bailieu, ii, 142-145), despite assurances that Prussia should be informed of everything.

² The proposition is contained in the instructions despatched immediately to Lucchesini, Bailieu, ii, 145 ff.

³ The only military measure the king would approve was the placing of a weak cordon of Prussian troops on the side next to the invaded territory. This measure was humbly explained to Bonaparte and then abandoned. The immeasurable weakness of Frederick William III. in this crisis again warns to caution in attributing his inaction solely to Russia's negative attitude.

⁴ Max Lehmann, *Scharnhorst*, 336: "Sie (Prussian government) liess zu, dass ein französisches Heer von Hannover Besitz ergriff. Was das sagen wollte, ermassen wir wenn wir bedenken, dass der Kurstaat im Osten an das Stammland des brandenburgisch-preussischen Staates grenzte, Hamburg und Bremen umklammerte, die untere Weser und Elbe beherrschte, bis fast an die Thore von Lübeck und die Gestade der Ostsee reichte. Frankreich war der Nachbar von Dänemark geworden, von Schweden nur durch die Breite von Mecklenburg getrennt; sein

that day is the fairest incident in the career of the Minister of Neutrality. But deserted by the Duke of Brunswick in the crucial moment, the efforts of Haugwitz in favor of an aggressive policy were more than nullified by the king's ineradicable preference for peace at any price, strengthened as it was by the party of Beyme, Lombard and Köckeritz. The only influence from which any result might have been expected was silenced. Alopäus, the Czar's envoy, was still bound by instructions which he had never approved,¹ and that no longer represented his master's sentiments, for the views of the Russian government had undergone a revolution so sudden and decisive as to be almost inexplicable.

Three days after the conference at Cörbelitz, Alopäus received from St. Petersburg orders to arrange with Prussia a joint Russian-Prussian protection for the neutrality of North Germany and the Hansa cities.²

Haugwitz's despairing exclamation, "Why did you not come to me with such a proposition a fortnight, even a week ago? It is all over with Hanover now," was truer than that minister knew. Russia's conviction that Prus-

Heer stand zwei Märsche von Magdeburg, fünf Märsche von Berlin, sieben Märsche von Stettin. Dass die ganze rhenisch-westfälische Stellung im Rücken umgangen war, war ein Nachtheil der hierneben nahezu verschwand."

¹ May 12, he was doing all he could to forward Decken's plans. Ompteda, 94. Cf. also Ulmann, 72, 73 (foot-notes).

² F. Martens, *Recueil des Traités conclus par la Russie*, vi, 313 ff. The instructions are dated May 6/18. A second and more definite set were sent May 12/24. Marten's discussion gives the mistaken impression that Alopäus had received the latter when he went to Haugwitz, May 31. Martens misdates later correspondence between Alexander and Frederick William, as may be seen by comparing his material with the letters as given in *Publicationen aus den kgl. preussischen Archiven*, vol. 75 (edited by Dr. Paul Bailleu).

sia was truly in earnest in its opposition to France, and that the occasion for action was a real one, requiring such expedition and such measures as Prussia had proposed in good faith, had come too late to save the Electorate and the Hanseatic cities, in whose fate Russia was indeed deeply interested.¹

Indecision at Berlin had decided the fate of Hanover, where equal indecision prevailed. The orders from King George through the minister in London to the Regency in Hanover concerning the resistance to be offered to a French invasion, had been necessarily conditioned by lack of knowledge and a desire not to hamper the Regency and General Wallmoden by rigid directions unsuited to meet rapidly-changing conditions.² They were elastic enough to have justified aggressive action on the part of a strong Regency and a vigorous commanding general.³ But it was the indefiniteness of the instructions from London that the Hanoverian ministers

¹ It is likely that Alopäus's reports produced a more favorable view of Haugwitz's plans and a realization that Frederick William needed to be pushed on rather than restrained. Prussia had so often proclaimed the inviolability of the neutrality of North Germany that it might well have been expected to do something in such a crisis. Appeals from related houses (Holstein and Mecklenburg. Münster's despatch of May 24/12, *Des. 24, 131^a* [*Hanover Archives*]) and the Hanseatic cities may have helped show the widespread danger of a French occupation of Hanover.

² V. Lenthe wrote to Wallmoden, April 5, 1803: "Meines Ermessens werden Sie sich auf die möglichen Fälle zum voraus fassen müssen, und dabei niemahls auf bestimmte Vorschriften von hieraus rechnen dürfen, da die Entfernung dergleichen nicht zulässt, und es viel mehr äusserst bedenklich sein würde Ihnen dadurch die Entschliessung zu erschweren wozu hier unbekannte oder nicht erwartete Umstände Sie nöthigen können." *No. 1198* (*Hanover Archives*).

³ I refer to the orders of May 13. Appendix 11 to Wallmoden's *Darstellung der Lage*, etc.

assimilated.¹ General Wallmoden, who commanded the poorly-equipped and ill-organized Hanoverian army of ten thousand, was an old man with no great decision or energy.² The result of the shifting of responsibility between the three possible sources of authority, each weak in itself, was that the Hanoverian army after retreating from position to position was saved a definite engagement with Mortier's corps by the convention of Suhlingen, June 3, 1803.³ This capitulation was negotiated by a delegation sent out by the Regency.⁴ According to its terms, the Electorate was delivered over to a French occupation, the Hanoverian army retiring with the honors of war to an assigned area beyond the Elbe, where they were pledged to remain until exchanged against French soldiers cap-

¹In an informal note (Collegialschreiben), von Lenthe, in London, writes to the Regency, May 10, 1803, about the distribution of the troops to oppose a Prussian invasion. Ompteda, Appendix VI. In the preceding week the Regency had sent Decken to Berlin to ask for a Prussian occupation as a final measure.

²In a letter to Lord Malmesbury, Paget writes from Embden, Jan. 31, 1795: "Walmoden is irresolute and uncertain. . . . He is desirous of throwing as much responsibility as possible on the Generals under his command." *Paget Papers*, vol. i. Cf. also the material in Wallmoden's defense (*Darstellung der Lage*, etc.). See, for example, his letter to the Regency, April 20. Appendix II. On the same date the Regency wrote to ask Wallmoden what should be done. On the 22nd, they replied to Wallmoden's appeal for directions with the much-quoted sentence, "dass mann zur Zeit vermeiden müsse, was Ombrage und Aufsehen erwecken könnte." Wallmoden showed more energy and spirit than the Regency. Cf. his note of May 5, 1803, Appendix VII. to *Darstellung*, etc.

³Published in facsimile by Ompteda in his *Überwältigung Hannovers durch die Franzosen*, p. 362. For the clearest sketch of the events in Hanover during April-July, 1803, see F. Thimme: *Innere Zustände des Kurfürstentums Hannover*, 1806-1813, vol. i, 35-59.

⁴The Regency tried to get either a Prussian representative or the Russian ambassador to come on and conduct the negotiations with or for them.

tured by the English. On the anniversary of the King-Elector's birthday the French army entered the capital city. The shame of Kloster-Zeven had come again.¹ Napoleon, either unsatisfied with its provisions, or desiring to compromise George III., made his ratification of the convention conditional on the ratification by that monarch as king of England. King George very properly refused his ratification.² General Mortier immediately renewed his advance. The natural timidity of General Wallmoden was increased by the traitorous conduct of some of the provincial estates who refused longer to support his army, and by mutiny among his own troops. Immediate submission seemed to him the only course, and thus the Hanoverian army was not given the opportunity to make a defence;³ for on July 5, he arranged

¹ During the Seven Years' War the attempt of George II. to support Frederick the Great by the operations of an independent Hanoverian army was brought to a disastrous close by the defeat of the Duke of Cumberland at Hastenbeck and his weak surrender to the French at Kloster-Zeven, Sept. 8, 1757. See Waddington, *La Guerre de Sept Ans. Les Debuts*, ch. ix.

² Hawkesbury to Talleyrand, June 15, 1803, in O. Browning, *England and Napoleon in 1803*, 290. This despatch illustrates as no other document can, the peculiarity of the king's double sovereignty.

³ That the resistance would have been as effective as indicated by some of the military pamphleteers who later attacked their commander and the Regency, is very doubtful. When the recruiting was going on in May, young men fled the country and several communities created such disorder that troops were needed to quiet them. Several cavalry regiments mutinied while the troops were disposed for battle on July 3. One should not draw any sweeping conclusion from these facts as there were mitigating circumstances and much both in 1803 and in the years of foreign domination which followed that showed the loyalty of army and people to their absent ruler. Cf. Ompteda's *Überwältigung*, etc., 52 *et seq.*, and the letters of Major Ompteda published in *Zeitschrift des hist. Vereins für Niedersachsen*, 1860, 274 ff, for some idea of the spirit of 1803. The pamphlet literature called out by the disaster has some value from this point of view. On the action of the Estates, cf. Häusser, ii, 461 ff, and Hassell, *Das Kurfürstentum Hannover*, etc., p. 281.

with Mortier an almost unconditional surrender, and Hanover entered on its decade of submission to foreign rule.¹

Prussia, too, had chosen the part of humiliation. After the conference at Cörbelitz, King Frederick William had started south on a visit to his newly-acquired possessions. With him went Lombard and the group that had dashed any hope of action. Haugwitz, dissatisfied to the point of resignation, was left in Berlin, from which place he sent urgent memorials based on the changed attitude of Russia.² But King Frederick William could not be aroused.³ In these trying days he proved himself in truth "a lamb that carried anger as a flint bears fire." He sought only to avoid the alliances that France⁴ on the one hand, and Russia on the other,⁵ were urging upon him. Point by point he yielded before the French autocrat,⁶ who in these weeks might well

¹In 1741, when Hanover was threatened by the danger of a French invasion, George II. had concluded in Hanover's behalf a special neutrality treaty with the French. Prof. Ward (*Hanover and Great Britain*, p. 147) calls the treaty of 1741, "the first time in the history of the Personal Union when the interests of the Hanoverian Electorate were openly and in a most marked fashion treated as separate from those of Great Britain."

²See the memorial of June 4, in Bailleu, ii, 152-154.

³*Cf.* king to Haugwitz, June 9, Bailleu, ii, 159.

⁴Instructions to Laforest, French envoy in Berlin, Bailleu, ii, 144-145.

⁵*Cf.* Ulmann, 68 *et seq.* Also *Pub. aus den kgl. preuss. Archiven*, vol. 75. The English offer of subsidy accompanied by a guarded offer to refer any ulterior matter, by which the subject of Hanover is meant, was never presented. *Cf.* Instructions to Jackson, June 28, and his reply July 16, 1803. *F. O. Prussia*, no. 63 (*English Record Office*).

⁶See Frederick William's despatches in June, 1803, published in Bailleu, ii. Napoleon broke his promises to tell the king his plans before executing them, and disregarded his own solemn assertions that the Hanseatic cities would not be disturbed.

find justification for his often manifested contempt of Prussia. What Frederick William gave to his advisers as his ultimatum—that only the death at an invader's hands of a Prussian on Prussian soil, could justify the abandonment of neutrality¹—was made patent to the world through his retreat in the face of French aggression. The Prussian king had failed to meet the first great crisis of his reign.² He had given to Europe the measure of Prussia's weakness. In the story of 1803, Frederick William III. is the one determining factor, and with him lies the ultimate responsibility for the initiation of the disasters that followed his unwillingness to pay the price of national honor and self-respect.³ For him and his state was reserved the privilege of Polyphemus's cave, that of being devoured last.⁴

¹ Hardenberg, *Denkwürdigkeiten*, ii, 22.

² Cf. Max Lenz in *Cosmopolis* for 1898, 586, 587. For a further discussion of the views contained in this article cf. *Hist. Zeit.*, vol. 81, 56, and vol. 82, 188. Bailleu, in his introduction to volume 29 of the *Publicationen aus den kgl. preussischen Archiven*, p. xxxv, points out the general discontent in Berlin and throughout North Germany at the weakness of the Prussian policy. In confirmation of my disinclination to excuse King Frederick William on the ground of Russia's inaction, I may cite the opinion of Hardenberg in his *Denkwürdigkeiten* (ed. Rank), ii, 18, 19. Prof. Ulmann, in his *Russisch-Preussische Politik bis 1806*, p. 57, indicates a similar view of the king's character. Lombard, in his memorial (Aug. 20, 1806), shares the view of that day as to Russian influence. Cf. Bailleu, ii, 615.

³ What might have happened if he had opposed the French is suggested by Hardenberg, *Denkwürdigkeiten*, ii, 14, 15. What did happen was that before the year ended, Prussia's position became so untenable that she was obliged to consider a French alliance as a way out. Cf. Bailleu, ii, p. xliii.

⁴ Frederick the Great, in his circular letter, in 1784, urging such a union as the Fürstenbund, had used this figure, and Alopäus now turned it on Frederick William. Cf. Jackson's despatch of June 28, 1803. (*English Record Office*.) In a conversation with the Russian ambassador, early in May, Haugwitz had said: "Nous serons les derniers à être

It is with this sketch of the oft-told story of 1803,¹ that this study of selected phases of Hanoverian-Prussian relations may well close. At this one point we may group all the threads of influence that have from time to time affected the relations between the powers. The collapse of the Electorate before the French invasion, leads us not to an apportionment of responsibility² between individual members of the Electoral government, but to a clearer impression of the essential weakness of a system which in the absence of the ruler, made possible the division of power and thus of responsibility. The very fact of a French invasion reminds us that we are

mangés; voila le seul avantage de la Prusse. Que les Anglais exercent le despotisme sur les mers, c'est un très grand inconvénient, je l'avoue, mais le despotisme continental est infiniment plus dangereux." Alopäus despatch to Chancellor Woronzow, April 25 / May 7. Cf. F. Martens, *Recueil des Traités conclus par la Russie*, vi, 310.

¹ The reader is reminded that the incident here treated has been elaborated in the studies of Bailleu, Ompteda, Martens, Thimme, Ulmann, Häusser and Hassell. This chapter makes a redistribution of emphasis on some matters, *e. g.*, the indemnity negotiations as the basis of Russian and Hanoverian views of Prussia's intentions in its offer of occupation, Hanover's influence at St. Petersburg and the degree of Russia's responsibility for King Frederick William's practically unalterable neutrality. It furnishes, I believe, the only account in English of the occupation of 1803, and gives the monograph its fitting conclusion.

Addendum. Since this note was put in type, there has come into my hands, *Studies in Napoleonic Statesmanship: Germany*. Herbert A. L. Fisher (Oxford, 1903). Chapter three, pages 48-67, of this work, are on Hanover and the French occupation of 1803. Most of this limited treatment is devoted to Hanover before 1803 and to the occupation after July 5, 1803.

² Ompteda attempts such an apportionment of his fault-finding, cf. *Die Ueberwältigung Hannovers*, etc., pp. 48, 49. He is, in general, altogether too favorable to the Regency. Cf., *e. g.*, pp. 34, 36, 43, 49, 56, 68, *et passim*. When one considers the almost independent power that the Regency exercised in the absence of the Elector, one must lay upon them a proportionate share of responsibility for conditions in the Electorate.

only seeing the execution of a long cherished plan, whose existence had always been a threat against the Prussian policy of neutrality for North Germany. The nullity of the Empire, which made possible the neutrality of Hanover in 1795, while the Empire was at war, made possible the destruction of that neutrality in 1803 when the Empire was at peace. Prussia and Prussia's king reveal in their action their dependence on Russia in any attempt to make headway against Napoleon.¹ The events of 1801 and the baleful influence of the dissensions over indemnity are the seed whose fruit is reaped in the paralyzing Russian and Hanoverian distrust of King Frederick William III., who, by the same events, had been made extraordinarily sensitive to suspicion and misinterpretation, while the increase of Prussian territory by the large indemnities she had obtained in Westphalia, made him, more than in 1801, responsible for the protection of Hanover and Northwestern Germany.² With the occupation of 1803 ceases for a time at least, the activity of Count Haugwitz,³ and with him goes the neutrality which, though it had shown itself a political

¹ Haugwitz's words, in speaking of the period after March, 1801, bear quoting here: "La cruelle catastrophe, dira-t-on, qui termina les jours de Paul aura soulagé la Prusse d'un poids qui à la longue aurait eu encore pour elle des suites assez gênantes. Mais enfin délivrée des embarras qui lui venaient du côté de la Russie, il restait ce colosse qui semblait ne pouvoir s'arrêter qu'en roulant sous ses pas tout ce qu'il approchait." See his *Memoires* in Ranke, *Works*, 47, 313.

² Max Lehmann, *Scharnhorst*, i, 334.

³ Haugwitz was more than disappointed at the king's desertion of him and his "cheval de bataille . . . dont il est si glorieux." (Bailleu, I, 539.) See his exposé in Ranke, *Works*, 47, p. 298. He attempted to resign (see Jackson's despatches in June and July in 1803, in *English Record Office*) but the king kept him in office. Hardenberg substituted for him in August, 1803, and succeeded him early in 1804. See Hardenberg's *Denkwürdigkeiten* [Ranke], ii, pp. 1-30.

system for the days when France was militarily weak, proved in the hands of such a ruler as Frederick William III. unfit to bulwark Prussia against the power of a France armed and led by Napoleon Bonaparte. All this in retrospect over the years since the treaty of Basel. From the view-point of 1803, the events of 1806, 1813, even to 1866, stretch forward, inviting one to further study of the relations between Prussia and Hanover.



ADDENDA

To p. 115, note 1. An English translation of the proclamation issued by King George III. disbanding and expelling hostile forces in Hanover is given in "*The Political State of Europe . . . [1792-95].*" Vol. x, 443 (London, 1795).

To the evidence cited on p. 182 to show Prussia's material prosperity during the neutrality period, should be added the statistics on trade and shipping in Berner: *Gesch. d. preuss. Staats*, p. 492, and in Philippson, *Gesch. d. preuss. Staatswesens*, ii, 164.

Attention should have been called in note 1, p. 158, to Haugwitz's reply of Dec. 14, 1800 (see Häusser, ii, 492, note 1), praising von Dohm's plan for a North German Confederation, but rejecting it. The reason given, *i. e.*, that the uncertainty of prevailing conditions did not allow Prussia to fix on a definite plan, illustrates again the inability of the statesmen of the period to carry out logically and ruthlessly any policy.

One must recall again the quotations given in note 2, p. 123, and note 2, p. 226, and place them in conjunction with the dictum of Hertzberg in 1791: "Le système de la Prusse . . . est de n'en avoir aucun et de se conduire d'après les occurrences." Sorel, *L'Europe et la Révolution Française*, i, 523.

To p. 155. A re-reading of Meier's *Hannoversche Verfassungs- und Verwaltungsgeschichte*, i, 319, and ii, 211, leads me to doubt the correctness of my identification of Graf Hardenberg with the Prussian statesman then in Hanover.

To p. 45. Alvensleben, Prussian minister of state, was a native of Hanover. Meier, *sup. cit.*, ii, 204.

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